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CONTENTS

Arms Control and the Developing Countries — *Lincoln P. Bloomfield and Amelia C. Leiss* 1

The "Satisfied" and "Dissatisfied" States Negotiate International Law: A Case Study — *Robert L. Friedheim* 20

The Concept of Preparation: Some Questions about the Transfer of Systems of Government — *B. B. Schaffer* 42

The International Bank in Political Perspective — *David A. Baldwin* 68

REVIEW ARTICLES

Coexistence and Cooperation in International Law — *Richard J. Barnet* 82

Laboratory, Law, and Anecdote: Negotiations and the Integration of Data — *Wesley L. Gould* 92

Totalitarianism in Retreat: The Example of the DDR — *Kurt L. Shell* 105

New Trends in International Affairs — *Lawrence S. Finkelstein* 117

Democratic Stability and Instability: The French Case — *Eric A. Nordlinger* 127

The Contributors ii

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THE CONTRIBUTORS

LINCOLN P. BLOOMFIELD is Professor of Political Science and Director of the Arms Control Project of the Center for International Studies at the Massachusetts Institute of Technology. He is the author of *The United Nations and U.S. Foreign Policy* (1960), and is the editor and coauthor of *Outer Space: Prospects for Man and Society* (1962), *International Military Forces* (1964), and the forthcoming *Khrushchev and the Arms Race.*

AMELIA C. LEISS is Assistant to the Director of the Center for International Studies at M.I.T. She is editor and coauthor of the Carnegie Endowment's 1965 analysis *Apartheid and the United Nations Collective Measures.*

ROBERT L. FRIEDHEIM is currently engaged in research on parliamentary diplomacy in the United Nations. He is Assistant Professor in the Department of Political Science at Purdue University, and has written both on international law-making conferences and on the American labor movement.

B. B. SCHAFFER, who was until this fall Reader in Public Administration at the University of Queensland, Australia, is now at the University of Sussex, England. He has published (with K. W. Knight) *Top Public Servants in Two States* (1963) and (with D. C. Corbett) *Decisions: A Case Book in Australian Administration* (1965). He is finishing a study of the development of administrative institutions in Papua-New Guinea.

DAVID A. BALDWIN is Assistant Professor of Government at Dartmouth College. He is editing a book to be called *Foreign Aid and American Foreign Policy: A Documentary History*, and is writing a book on economic development and American foreign policy from 1943 to 1963.

RICHARD J. BARNET is Co-Director of the Institute for Policy Studies, Washington. He is the coauthor of *After Twenty Years: Alternatives to the Cold War in Europe* (1965) and coeditor of *Security in Disarmament* (1965).

WESLEY L. GOULD, Professor of Political Science at Purdue, is the author of two volumes on international law. With Kurt Schwerin, he has just completed (for the Association of American Law Schools) an annotated bibliography of international law studies, documents, and periodicals, and is at work, with Michael Barkun, on a bibliography of social science literature pertinent to international law, together with essays suggesting topics in law that are susceptible of examination by social science techniques. This project, sponsored by the American Society of International Law, is part of a basic undertaking to relate the behavioral sciences and international law.

KURT L. SHELL is Associate Professor of Political Science at the State University of New York at Binghamton. He has recently returned from a prolonged stay in West Berlin where he led a research project, sponsored by the Institute for Political Science of the Free University of Berlin, dealing with the reactions of Berlin's citizens and political leaders to the crisis created by the Wall. His book *Bedrohung und Bewaehrung* (1965) embodies the results of this research.

LAWRENCE S. FINKELSTEIN has recently become United States Deputy Assistant Secretary of Defense for International Security Affairs. His contribution to this issue was written in his former capacity as Vice-President of the Carnegie Endowment for International Peace. He is the author, with his wife, of a forthcoming volume of readings on the subject of collective security.

ERIC A. NORDLINGER is Assistant Professor of Politics at Brandeis University and has completed a book entitled *The Working-Class Tories: A Study in English Political Culture.*

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ARMS CONTROL AND THE DEVELOPING COUNTRIES

By LINCOLN P. BLOOMFIELD AND AMELIA C. LEISS*

I

THE detonation of Peking's first atomic devices in recent months has provoked renewed widespread discussion of the dangers of the further spread of nuclear weaponry. Speculation has flourished about who would be next—Sweden? Japan? Israel? Or perhaps India, which has become the first nonnuclear country to build a chemical separation plant? Cost estimates put nuclear weapons within reach of the poorest nations within a few years.[1] Governments have issued solemn pronouncements about the need to design further international agreements to prevent nuclear proliferation. The President of the United States made use of a high-level committee to advise him how to deal with the problem.

There is good reason to become nervous about the prospect of a five-, six-, seven-, ten-, or twenty-nation nuclear world, notwithstanding minority arguments that such a situation might increase stability. There seems to be a consensus that such an environment would furnish to individual political and military leaders, of varying degrees of personal stability, integrity, or responsibility, new and potentially disastrous opportunities for mischief on a grand scale. The present proclivity of some small states to invoke the possibility of thermonuclear war if they do not have their way could turn from rhetoric to reality.

So to have a threatening disease under control at one site, as we now temporarily do, by no means guarantees preventing its outbreak at a variety of other sites. In short, the further spread of nuclear weapons cannot be regarded by responsible nations as anything but a profound complication at best, a lethal menace at worst.

But even though the impulse to suppress the further spread of nuclear weapons to the smaller countries is a sound one, it is not clear that it has been well thought out in a broader political and strategic context. Prescriptions that focus only on nuclear weapons, or only on

* This article is based, in part, on material from a report prepared under contract with the United States Arms Control and Disarmament Agency. The judgments expressed in this article are those of the authors and do not necessarily reflect the views of the United States Arms Control and Disarmament Agency, or any other department or agency of the United States government.

[1] See Secretary of Defense McNamara's news conference of October 22, 1964.

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the technical problems of control, risk misleading us about the true nature of the problem of security in those regions of the world community we call underdeveloped. The time is ripe for a reappraisal of the broader question of the role of arms and the prospects for arms control in some of the countries not usually thought of centrally in the continuing East-West arms-control dialogue.

American notions of security are well formed with respect to the industrially advanced nations of Western and even of Eastern Europe. But it has never been quite as clear to Americans that United States interests in the non-Western areas of the world grow out of the same indivisibility of security. In reality the problem of security within the developing regions is a seamless web involving the whole pattern of local political development, relations with the Atlantic powers and the Communist powers, the traffic in armaments, and the possibility of arms-control measures. Above all, what in the current jargon one might call the "security interface" between the United States and the developing regions of the world grows out of the highly destabilizing effects of change in these regions on the larger equilibrium between the superpowers. The effect of volatile local upsets on the larger security equation has been brought home to Americans over and over again in postwar crises in such places as Indochina, Palestine, Suez, the Congo, and Cuba—crises that in time came to involve the superpowers and, far more to the point, the potential use of their super power. The problem of arms—and arms control—in Asia, Africa, the Middle East, and Latin America thus is linked by a chain of policy logic with the larger problem of world security that preoccupies statesmen of the West. If it has special meaning for the United States it is because of this country's leading role in the quest for stability in these regions.

One of the most striking aspects of the developing regions is the variety of stages of military development at which they now find themselves. Some are engaged in intense competition: India and Pakistan, the two Vietnams and the two Koreas, Indonesia and Malaysia, Cuba, and the antagonists in the Middle East, notably Egypt and Israel—all of these countries have been arming heavily, relative to their resources. But elsewhere in these regions, perhaps the most interesting thing that can be noted is the lack of arms competitions. If arms races are a typical phenomenon of advanced economies, then the great majority of underdeveloped and emerging nations are at an economically primitive stage.

There may be a junior-size arms race on between Egypt and Israel, and, in a different sense, within Cuba—but what is happening in North

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Africa, sub-Saharan Africa, and the rest of Latin America can best be described as "arms walks." Indeed, we may profitably think of sub-Saharan Africa as the outer space of regional arms control, for it is not yet militarized—although many temptations to change that situation exist, and no one is quite certain that the Soviet Union has not in fact started the race unilaterally, just as in space.

If the United States has a strong interest in seeing that serious arms races do not start in the regions in question—and we assert that it has—the American perspective must broaden beyond the special case of nuclear weapons technology, in order to view the problem as a whole. The goal of finding better ways to restrict the arms competitions, existing or potential, in the developing regions has not yet been elevated to a very high place in the hierarchy of United States strategic and foreign-policy interests, but it deserves to be taken more seriously than in the past. We do not rate this interest as equalling the United States interest in deterring the Soviet Union, or in containing Communist China, or in keeping the areas in question from being absorbed by either of the Communist empires. Neither do we rate it as high as the U.S. interest in finding ways to moderate the larger nuclear arms race. But surely it belongs on a par with the extremely potent U.S. interest in the successful transition of the developing countries into stable and viable societies, for this objective is probably unattainable if arms competitions swallow up the precious margin of resources needed for development that so many of the countries still lack.

We also see the restriction of new-nation arms competition as a vital part of the great United States interest in reducing the capacity of secondary disputes to erupt into great-power war. It should not be forgotten that the more stable the strategic balance in great-power relations, the greater may be the temptation for one of the superpowers to engage in competitive military assistance in areas adjacent to the zones of dominant influence of the other. Thus the potential for intensified arms competition in the developing areas may be growing, and vigorous arms-control policy may be necessary in order not to lose ground.

It scarcely needs saying that, however much the United States may want it, no arms-control or disarmament scheme can be expected to materialize in a region if that scheme is not clearly in the interests of the preponderance of countries in the region. For this reason, arms control may not be possible; it may be extraordinarily difficult to bring about; it may necessarily be drastically limited in scope. But

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in the catalogue of policy measures the United States must contemplate to fulfill its interests in both development and stability in these regions, disarming and arms-controlling measures have a serious operational place alongside other basic means of policy, whether economic, political, or military.

II

It may be asked at once how we can even contemplate a common security and arms-control policy toward regions with such disparate problems. Of the several regions in question, there is open warfare in at least one—Asia; profound and bitter hostility in at least one—the Middle East; mobilization against a common regional enemy in at least one—sub-Saharan Africa; and a virtual pariah on the margins of at least one—Latin America.

Put differently, perhaps the most striking similarity among all the regions but North Africa—and perhaps potentially there—is the existence of a malignant dispute that, like a cancer, drastically reduces the chances for the future political health of the body politic. Cuba in Latin America, the "white redoubt" problem in southern Africa, Chinese ambitions in Southeast Asia, and the Palestine issue in the Middle East—plus, some would argue, the Ethiopian-Somalian-Kenyan dispute in the Horn of Africa—all these, like the essential struggles between the United States and the Soviet Union over Germany, Eastern Europe, Berlin, and the very structuring of the political future, confound the most imaginatively drawn plans for mitigating the arms competitions in question.

In considering arms control as a possible policy toward these regions one clearly must, like the planners of great-power arms control, "design around" the obvious obstacles. But there is no assurance that if obstacles did not exist or if they magically disappeared arms-control measures would even then be acceptable. Perhaps if no obstacles existed arms-control measures might not be as important as we believe they are now. But as it is, there are built-in dynamics to regional quarrels and threats which bode ill for the future unless steps are taken to control the process. The very impetus to arm against a third party can itself engender a new and dangerous bilateral arms race—as witness the case of India and Pakistan, where it made war possible.

Moreover there are signal differences among the key obstacles mentioned. Latin America lives under a potent guarantee of U.S. power and could even disarm under that umbrella. But in black Africa the various objectives of armament are pursued in the absence of any such

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firm commitment from a great power. Another potential obstacle to a common approach lies in the external orientation of some regions. Latin America has a special, almost exclusive, relationship with the United States, marred only by Cuba's present unholy attachment to the Communist bloc, by France's marginal efforts to effect a political and economic beachhead, and by traditional ties of sentiment and culture to Spain and Portugal. And Africa, both north and south of the Sahara, has a special relationship with former metropoles, notably the United Kingdom, France, and Belgium.

In the Middle East, apart from Israel's intimate relations with the United States, the Arab states can no longer be said to relate signally to any single outside state. Turkey and Iran enjoy a special alliance relationship with the United States and Western Europe, but this situation could, of course, change with shifting strategic concepts and arrangements. Iran, for example, might conceivably become part of a larger neutralist bloc in the Middle East and South Asia (which in turn might lend itself to a single framework of arms control).

Other connections between the regions suggest at least certain cautions that ought to be observed in any attempts to develop a comprehensive arms-control policy for underdeveloped regions generally. One caution stems from the highly sensitive relationship between two of the regions—the Middle East and North Africa. While a package approach to arms control in the Middle East and North Africa may have a superficial attractiveness, in fact the situations are so widely different that a single policy scheme linking the two might be subject to fatal stresses. Of course, to the extent that any Middle East arms-control scheme involved members of the Arab League, all four North African states would of necessity be associated. Indeed, an arms freeze for the Middle East should logically be applied to the whole Arab world plus sub-Saharan Africa, considering the arms flow between the two. It could be argued that any arrangements for controlling arms in North Africa might serve as a form of leverage to bring about a Middle Eastern settlement. It might, however, be very counterproductive politically to seek to use North African arrangements as a means of pressuring the Middle Eastern countries. Also, we do not believe it would serve either United States interests or the prospects for regional stability if arms-control negotiations encouraged significantly increased participation by North Africa in the affairs of the Middle East.

But this is not the whole story. In the relationship between North and sub-Saharan Africa one can readily envisage a common approach in which important arms-control steps are, at least in principle, initi-

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ated internally by the countries of the region themselves. The Organization of African Unity provides a common, if embryonic, political framework. It has already employed sub-Saharan personnel to undertake mediation of a North African dispute. The OAU umbrella might now be opened still further over the continent as a whole, perhaps excepting the United Arab Republic, whose orientation is preponderantly eastward. Even the UAR could logically be included in measures such as the preservation of the whole continent as a nuclear-free zone. United States policy could well aim at the controlled limitation of all arms in both North Africa and sub-Saharan Africa, and if the UAR must be exempted from some of the measures that limitation would involve, this exemption does not detract from the desirability and even urgency of constructive steps in the other two regions.

The nature of the present arms confrontation in Asia differs significantly from that found in the other developing regions in ways that may make it futile to consider far-reaching arms-control measures comparable to those for the rest of the developing world. Even with their present and potential instabilities, Africa, the Middle East, and Latin America are as yet either outside direct cold war confrontations or represent areas in which the cold war opponents have already tested and assessed each other's commitments and intentions. The same cannot be said of Asia. There the war in Vietnam dominates the scene; but its significance derives from the larger fact of Communist control of North Vietnam, most of Laos, North Korea, and, above all, of mainland China. Even more important is the dynamic and probing nature of Communist China's policies in the region as a whole. In these circumstances, even if the non-Communist states of Asia agreed to a self-denying ordinance concerning weapons, we should still have to be skeptical about the chances of Communist-dominated countries' doing so too.

Equally important, who would initiate measures of arms control that might appear objectively desirable? In Latin America, sub-Saharan Africa, North Africa, and at least in principle in Asia, steps toward useful and significant arms control might be taken by the countries of each region; in the Middle East, and probably also in South and Southeast Asia, this is clearly impossible at the present. For these areas the primary initiative must come from without.

If regional arms control were to be sought region by region, what criteria would the United States use to make choices? Obviously one criterion would be a priority reflecting United States interests, and resting on an appraisal of the short-term threat to the peace. Another

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criterion would surely be the strength of United States influence in stimulating regional action. In terms of threats to the peace for which arms control would be a remedy, the Middle East probably has top priority, given its potential for escalation to nuclear capabilities; but United States influence may be least strong there. The chances for aborting a regional arms race may be greatest in sub-Saharan Africa, where arms levels are lowest; but United States influence may be more easily applied in Latin America. And finally, the military problem in Asia may be most acute; but it may be least desirable from the standpoint of short-term United States interests to make inroads on the military strength of India, Malaysia, Laos, and, above all, South Vietnam.

III

The problem of nuclear proliferation, the related problem of local arms competition, and the possibilities of remedial or preventive statesmanship to deal with these dangers in a broader context of security come into sharper focus when one looks at the actual political and strategic situations in a given area. If one follows through the reasoning for one area, say, Latin America, one may discover a possible line of approach.[2]

Armed forces are needed in Latin America principally to maintain law and order, and to deter and eliminate armed subversion. There is little objective military need for any Latin American state to acquire a military capacity to defend itself against other states in the region or to defend the region as a whole against attack. The chief intra-hemispheric threat to security—Castro's Cuba—should continue to be contained as a direct military menace so long as U.S. guarantees, reinforced by both inter-American and universal collective security agreements, remain unambiguous. (The indirect threat of Castro-supported subversion, however, is another matter.)

The present organization, equipment, doctrine, and self-image of the Latin American armed forces emphasize classical conventional military preparedness. Restructuring these forces to internal security requirements would in all countries result in scrapping useless and costly "prestige" armaments, and in some countries, in reducing manpower. Building competent internal security forces in addition to existing forces, rather than converting the latter to new tasks, would

[2] For data in this section we are indebted to Professor William T. R. Fox and his associates at the Institute of War and Peace Studies, Columbia University, as well as to Col. David Evans and Col. Wesley Posvar, USAF, in their individual capacities.

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constitute a severe and unnecessary economic drain. While present military budgets are neither crushing nor spiraling, they are an important economic burden and are larger than the international climate seems to justify.

The primary obstacles to any arms-control agreements in Latin America grow out of internal rather than international factors. For the most part, anti-Communist, reform-oriented political groups would favor the allocation of fewer resources to the armed forces; the major group in opposition would be the military establishment, which in nearly all countries in the region is an important element in the domestic political process. The circumstances of military intervention in that process differ from country to country, and on occasion this intervention makes a valuable contribution to U.S. goals. Generally speaking, however, it is far more clearly in the United States interest that stable, competent, and responsible civilian political institutions have an opportunity to develop free from the constant threat of barracks revolt and military adventurers, e.g., in the Dominican Republic.

U.S. military security interest would on balance certainly not be hampered by a program of regulation and limitation of arms and armed forces in Latin America; U.S. political interest would positively benefit by the continued existence of both arms and armed forces at low levels. It would therefore be desirable if a scheme for arms limitation and regulation were to be formulated by Latin American governments, either through the Organization of American States or in an *ad hoc* forum, developed either comprehensively or on a step-by-step basis, and composed of the following principal elements:

(1) Formal renunciation by the countries of Latin America of the right to manufacture, receive, or include among national armaments nuclear weapons, CBR (chemical-bacterial-radiological) weapons, and other weapons of mass destruction, along the lines of the Five Latin American Presidents' Declaration of April 29, 1963, under which governments would commit themselves not to manufacture, receive, store, or test nuclear weapons or devices to launch them. However, the United States should not favor any arrangements that in principle would affect its own right to use nuclear weapons in defense of the region if that ever became necessary, or its right to transport U.S. weapons through the region or deploy them within it. In this sense the proposal differs from the usual notion of nuclear-free zones.

(2) Prohibition by the countries of Latin America of all forms of conventional weapons systems commonly considered to be "sophisticated" and/or offensive in nature and not essential to their internal

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security needs. Admittedly, different situations involve different security requirements; but examples of prohibited weapons might include: medium, intermediate, and long-range missiles with precision guidance, whether surface-to-air, surface-to-surface, or air-to-surface; jet-powered aircraft other than fighters; heavy tanks; mobile artillery; large warships, such as aircraft carriers and cruisers; and submarines.

(3) Establishment of quantitative limits on other primarily defensive weapons, military aircraft, and naval vessels. Again, the question of permitted weapons requires study. A list of weapons permitted to meet internal security requirements might include: small arms and ammunition; personnel carriers; light machine guns; tear gas and other crowd-control equipment; trucks and light tanks; small coastal and river defense craft; helicopters; and light military aircraft for transport and surveillance.

(4) Limitation of armed forces based on the recognition that for most Latin American countries the armed forces are required primarily to meet internal security needs. Under this policy a few states would be required to reduce their forces to agreed levels, and virtually all would need to restructure their armed forces to fulfill the internal security function. They might, in addition, retain some surplus equipment and trained military reserves for collective security purposes under the Organization of American States and/or the United Nations.

(5) Agreement by the signatories not to acquire additional arms-production capacity either by new construction or by conversion.

(6) Agreement to reduce military budgets and to exchange military information to reduce the chance of arms competition based on miscalculation and to promote a climate of greater mutual confidence.

(7) Agreement to demilitarize international frontiers in the region.

(8) Creation of an Arms Control Inspectorate, perhaps comparable to that of the Western European Union Agency for the Control of Armaments, to perform minimum necessary inspection functions.

(9) Exploration by the Central American countries of possible subregional agreements going beyond the hemispheric measures and possibly administered separately.

It seems to us reasonable and desirable for the United States to encourage Latin American countries to seek a comprehensive agreement along these lines. United States initiative might be exerted in the context of a larger scheme for reducing armaments and regulating the arms trade in the world at large, but as we said earlier, the initiative for a specific regional agreement should come from Latin America. In the United States military assistance program for Latin America—

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the Alliance for Progress Security Program—prime emphasis is correctly placed on internal security needs. The other military assistance under the program should conform closely to the requirements of arms control outlined earlier. United States influence with Latin American military officers should be used to promote a climate favorable to arms control.

Bearing in mind, however, that security is the touchstone, and that security does not exist in power vacuums, the indispensable accompaniment of arms-control action would be for the United States to find ways of emphatically demonstrating to Latin America the continued availability of United States power at the service of the OAS and the United Nations in the event of overt acts of aggression—specifically, acts sponsored or initiated by extrahemispheric powers and/or Cuba. Thus measures to strengthen the OAS and to enhance its standing with its member states must be regarded as significant corollaries to measures controlling and reducing regional armaments. And even in Latin America, where the United Nations peacekeeping role has been less prominent than it has been elsewhere, a developing sense of the support of the international community in case of need may help create the climate within which states feel they may confidently reduce their military forces.

IV

In another region, the Middle East, the arms-control picture changes radically—but not totally.[3] From the standpoint of both regional and world peace, Arab-Israeli enmity clearly dominates the security situation in this region. The spiraling arms competition between Egypt and Israel, now involving missiles and soon perhaps nuclear weapons, is probably the only genuine arms race in any of the regions covered in this analysis. The competition is essentially futile since the relative power positions of the adversaries remain little changed; yet if present trends continue, escalation of the race is inevitable, with unpredictable consequences. In the Middle East as a whole the yearly cost of arms has risen by 1963 to the arresting figure of one billion dollars. This cost constitutes not only a potential challenge to the peace but also a present obstacle to economic growth.

In the face of the Arab-Israeli struggle there is virtually no prospect at present for any form of area arms control or disarmament initiative

[3] For data on which this section is based we are indebted to Professor A. J. Meyer, Lt. William Kirby, USA, and Dr. A. C. C. Hill.

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from within the Middle East. Measures that are desirable and feasible must therefore be initiated and carried out from the outside. In specific terms, they might take the shape of agreement among external suppliers of arms and military matériel. Since the United States and the Soviet Union, while not necessarily the principal suppliers, are the chief competitors, a *détente* between them sufficient for such an agreement is a prime precondition for any significant arms control in the Middle East.

There are reasons why, despite the unpromising environment, certain limited, externally initiated and effected arms-control measures would be in order, and even be accepted—perhaps even secretly welcomed—in the area. Foremost among these reasons are the futility, cost, and increasing danger of the Arab-Israeli arms race. At least some in the region might conceivably be as responsive to propaganda for internal and regional peace and progress as to preaching of holy wars, forcible unification of the Arab world, or irredentist movements. President Bourguiba's recent trial balloons may be harbingers, however premature, of some changing attitudes.

In the Arab-Israeli area one indicated measure would be a joint declaration by the United States, the Soviet Union, the United Kingdom, and France, pledging not to take any action to encourage or aid, and to take any action necessary to prevent, the introduction of nuclear weapons or their essential components into the area. This declaration would be accompanied by assurances to the states of support for peaceful nuclear programs and by appropriate minimal controls through the International Atomic Energy Agency (IAEA). These measures alone would not prevent a determined effort (in Israel, for instance) to produce a crude but deliverable nuclear weapon. The means of prevention, short of a universally enforceable disarmament program, would consist of a combination of the external ban on introduction from the outside; IAEA inspection of power and research reactors; the ban on weapons testing; and, perhaps most important of all, a solid guarantee by the United States, alone or in conjunction with the other great powers, of existing international borders within the area.

The second measure that commends itself is an agreement among the external suppliers to keep arms in the area at existing levels both quantitatively and qualitatively. This measure requires two important preconditions: a guarantee of existing or peacefully renegotiated international borders within the area, and the removal of foreign troops and bases. The list of suppliers agreeing to the restriction would

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have to include not only the great powers but also additional countries in both Eastern and Western Europe.

There might be great merit—including the merit of increased acceptability—if both the nonproliferation declaration and the arms freeze, along with the provision for IAEA safeguards, were part of a larger scheme embracing North and sub-Saharan Africa as well. However, within the Middle East itself there might be two exceptional cases—Iran and Turkey. Outside of a generalized worldwide disarmament scheme, there seems for them no present alternative to continued reliance on United States power and continued inclusion in the "forward defense" category of United States military assistance. But we should keep in mind the possibility of a possible future trade-off between a solid Soviet agreement to cooperate on arms-control measures and to abstain from intervention in the Middle East and, on the other side, simply as two examples, possible reduction of the United States military presence in Iran and Turkey in a way that protects United States interests, as well as a postcolonial solution for British-controlled Aden and South Arabia.

When we turn to relations among the states of North Africa, it is quickly evident that for the present there is no such urgency for arms-control measures in this area as there is in the Middle East. From the point of view of United States policy planning, North African arms control might best be regarded in the light of a broader approach to either the Middle Eastern or, more profitably, the sub-Saharan region. At the same time, in view of the potential danger that disputes within the area might take the form of arms competition, contingent plans for regional controls specifically tailored to North Africa should be developed. As in Latin America, there are important initiatives that statesmen in North Africa can themselves take with profit to their own countries and to regional and world peace. These could relate either just to the North African area or to Africa as a whole, and could include formal renunciation of nuclear weapons capabilities, prohibition of sophisticated and offensive weapons, and adoption of the policy that national armed forces are to be used for internal security only. As with the Middle East, the United States should seek an agreement among major suppliers of arms that they will not provide to the countries in question sophisticated, offensive, or other weapons not needed for internal security.

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V

The security needs of Africa south of the Sahara, like those of North Africa and Latin America, can be defined in terms of internal disorders, threats of insurgency, and wars below the level commonly denominated as limited.[4] Like Latin America and the Middle East, it feels itself threatened by an enemy presence in the region—in this case the complex of white and/or colonial territories in the south. Unlike Latin America, here there is no single power that guarantees against major intraregional conflict; indeed, hard as it is for Africans to admit, for an indeterminate period ahead the capacity of the former metropoles to intervene may in fact provide a primary counterweight to regional instability.

A form of tacit arms control already is practiced in sub-Saharan Africa. Lacking indigenous arms industries, the countries of the area are dependent on external suppliers, principally Western, who have refused to supply advanced types of armaments. Exceptions to this tacit control system are the Republic of South Africa, with its growing arms industry, and the recently increased Soviet and/or Chinese assistance to disaffected or expansionist African states. Since continued arming of sub-Saharan Africa beyond certain levels, even for internal security purposes, could trigger local arms races, it is in the United States interest to encourage steps to prevent such an outcome. Because of the nature of sub-Saharan African security needs and the low level, quantitatively and qualitatively, of its arms, many of the familiar forms of arms control would be inappropriate. Furthermore no measure is likely to be acceptable if it appears to discriminate against black Africa in favor of southern Africa.

Clearly two things must happen before arms control in sub-Saharan Africa is thinkable as a policy. First, as in Latin America, collective security measures in sub-Saharan Africa must become sufficiently predictable and reliable that all states believe protection to be afforded against major external attack and, to the extent possible, against indirect aggression and subversion. Second, so long as African nationalists see no alternative other than aid from the Communist countries to offset the vastly superior armed strength of the white areas of the south, the United States will be in no position to influence developments in what could be the most portentous racial struggle of the epoch. A precondition for effective arms-control policies may well be

[4] For data on which this section is based we are indebted to Professor Hubert Gibbs and Professor William Newman of Boston University.

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a United States decision to develop considerably more active relations with African nationalist movements and non-Communist leaders in the southern areas, and through appropriate direct and indirect means to extend economic and military aid of a type that falls within the scope of the following proposals.

Once again, we think it desirable, within the framework of the political imperatives referred to above, that the independent states of sub-Saharan Africa be encouraged to take the initiative, preferably through a strengthened Organization of African Unity, to avert a future arms race by formally renouncing the right to nuclear weapons, prohibiting among themselves all forms of weapons commonly considered to be sophisticated and offensive, and adopting the policy that armed forces are to be used for internal security purposes only, with appropriate limitations as specified earlier.

As with all the other regions, the United States should seek international agreement now to keep nuclear weapons and their components out of sub-Saharan Africa, and should also seek an agreement among major suppliers of arms that they will not provide to the countries in question sophisticated, offensive, or otherwise prohibited conventional weapons systems. As implied above, the United States should as a matter of policy encourage in every way feasible the evolution and strengthening of the OAU as a regional security system increasingly able to take on responsibilities for negotiating, administering, and enforcing within the region political and military programs for both the pacific settlement of intraregional disputes and collective security.

VI

The problem of arms and arms control in Asia is, as we said at the outset, a special one, given the presence there, in far more tangible form than in any of our other regions, of the cold war plus, of course, hot wars in South Vietnam and on the Indian subcontinent.[5]

In North and East Asia, as in South Asia, the intense political competition between North and South Korea, the exposure of Japan and the Philippines to mainland China, and the aggressive policies of Indonesia toward Malaysia make any area agreement to limit arms most implausible. At the present juncture in Southeast Asia the United States would not want to tie its own hands—although any new

[5] We should like to express our appreciation to Mr. H. Roberts Coward, now with the Department of Political Science, The Ohio State University, for background material relevant to this section.

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political solution to the struggles between communism and the West in the Indochina peninsula may well include provisions limiting indigenous armaments. In South Asia, Burma and Ceylon might be happy to be parties to a self-limiting agreement, but India and Pakistan until now have each feared that the other would achieve a military edge, and both are increasingly exposed to growing Communist Chinese strength. Thailand must not be left vulnerable to Chinese or North Vietnamese aggression.

In the case of the Asian countries in general there exist some of the same elements that one finds in both the Caribbean and in the Middle East—fear of an aggressive force in the area, and unabating hostility between some of the area countries. The twin menaces of the spread of nuclear-weapon capabilities and of serious conventional arms races are both in view in Asia unless preventive steps are taken. The situation is not hopeless. Elements of a security program for Asia emerge from suggestions we made for the other two areas. As with Cuba, so with China—the only countervailing force with any meaning is the United States. A guarantee to oppose aggression—and to respect genuine neutrality—would be far more substantial than whatever primitive strategic power the non-Communist countries of the region could ultimately develop on their own and at prohibitive expense.

The second element is a general agreement, to which the countries of the area could subscribe, renouncing the production or deployment within their territories of nuclear weapons. (We are not suggesting, desirable though it may be, that it is practical to expect Communist China to abandon its new nuclear capability; but steps may become urgently necessary to prevent the transfer of some of its nuclear weapons to, for example, Indonesia.)

The third element is agreement by both the countries of the area and the principal arms suppliers that offensive or sophisticated weapons, as we defined them earlier, would not be supplied within the area. This third element raises a question that is relevant to all the areas of concern here, but perhaps particularly to Asia. It is certainly not likely to be generally acceptable, and probably not in the interest of the United States, to urge the states of Asia most exposed to direct Communist military pressure so to reduce or equip their forces as to tempt major or limited aggression. Nor is it likely the United States would help create a situation in which limited military pressure, such as India encounters from China, could be effectively met only by a commitment of U.S. forces.

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In general, the lack of a regional security system in Asia, or any practical prospects thereof, underscores the role that the great powers must continue to play as guarantors of the independence and territorial integrity of the countries concerned. Agencies exist today that are adequate for negotiating, reaffirming, and otherwise endorsing the security of the region. That the UN Charter condemns aggression in advance does not stand in the way of trying to define aggression more precisely for these and other countries. And that SEATO is inadequate, incomplete, and imperfect is itself no sufficient reason not to work to transform it into a region-wide security agreement, with the great powers standing outside it as underwriters.

VII

It has been said fairly often over the past fifteen years that the great-power arms race has passed the point of no return. Each time the point was newly charted, however, the possibilities of arms control may have actually improved, if the seriousness of arms-control negotiations is in fact a function of how frightened people really are. It may be terribly difficult to abort a new weapon or abandon a battle before it develops; historical evidence of the degree of difficulty is virtually nonexistent, and one must be sobered by the hazards of action in an area so replete with symbols of sovereignty, adulthood, power, and pride as is the matter of arms for new, small, or poor countries.

And yet unless one believes with orthodox Marxists in the preordination and inevitability of historical trends, the obligation remains to search for feasible means of altering the tide of events. To be constructive, one must be realistic. In some instances, notably in the Middle East and Asia, we have thus discarded any policy idea that depends on intraregional cooperation. In other areas we think it reasonable to urge local action. In all areas, including the Middle East and Asia, we think there are some measures the United States could profitably consider applying globally. Two overall policy steps stand out as essential. The first is *to take action, through seeking formal agreements first by nuclear powers and then by all other states, for the prevention of the further spread of nuclear weapons, CBR weapons, and other weapons of mass destruction, and including a ban on the manufacture, storing, or testing of weapons, and the devices to launch them*. We are not necessarily advocating the nuclear-free zone so popular in Soviet forensics. Nor are we suggesting that the United States ought to forego the right to use nuclear weapons *in extremis* or the right

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to transit and deploy such weapons, especially in the Western Hemisphere. But even this omission is without prejudice to the possibility that in making its larger strategic and political calculations the United States may decide that, to prevent dissemination of weapons to others, it must consider restrictions for itself regarding the deployment of nuclear weapons on the territory of other states in "peacetime." In fact, it may not be possible to press other countries to renounce nuclear weapons without subscribing to the central concept commonly implied by the label of "nuclear-free zone." (The issue of "first use" is clearly a separate one and is not dealt with here.)

The United States must decide with greater finality than it has up to now just how much importance it attaches to its anti-proliferation policy and how much it would be willing to do in order to achieve it. The relationship to the European problem is unavoidable. Without entering into that debate, we believe that if the French decision to create a nuclear force made less feasible a comprehensive agreement among the great powers to rebottle the nuclear djinn, something along the lines of the MLF may in fact make it even more difficult, at least in the short run.

This crucial policy issue to the side, if the United States can see its way clear to seek some or all of the agreements recommended here it will be necessary to provide adequate controls. If international inspection could be agreed to, including such overflight and on-site surveillance as is required, United States security needs would be met. Realistically, this is unlikely, and considerable reliance will probably have to be placed on the unilateral capabilities of United States and other national intelligence. Whatever form inspection might take, its aim would be to pick up with a reasonably high degree of confidence any development of significant strategic delivery capabilities before the increase could become an area threat, let alone a worldwide one. What the United States could not favor are prohibitions on unilateral overflight or outer space surveillance in the absence of effective international machinery.

The principal difficulty about inspection lies in the relatively rapid quantitative spread of nuclear reactors for research or power production. As we have indicated at several places, it is logical to have the inspection and reporting standards and procedures of the International Atomic Energy Agency applied. The policy corollary for the United States Government is a determined effort to improve and enlarge the writ of IAEA, along the lines it has already indicated.

One can only speculate upon the lengths to which the Soviet Union

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is in fact willing to go to stanch the potential spread of nuclear weapons technology. It abstained on the 1963 United Nations resolution regarding a Latin American nuclear-free zone. On other occasions, however, it has expressed readiness to seek agreements to this end. Reportedly, Soviet agreements for assistance with research and power reactors contain provisions to prevent the diversion of radioactive products to unauthorized uses.

The attitude of France may present another difficulty in obtaining agreement to prevent the diffusion of nuclear weapons. Reports persist of French assistance to Israeli programs. The pronouncements of some leading French military strategists on the benefits to be derived from the spread of nuclear weapons are cause for concern. Potentially, Communist China too could, as we have suggested, decide to share its growing nuclear weapons experience with favored client states.

To the extent that overseas United States air bases in the developing countries have been created primarily as forward echelons of the Strategic Air Command, the issue of bases is inescapably related to the issue of a nondissemination policy. Without entering into that complex issue in detail, it is not inconceivable that some profitable trade of our base positions would turn out to be consistent with a changing United States strategic doctrine that increasingly sees mobile sea-based, undersea, and continental missile power as preferable to overseas bases—a trend that has been reinforced by the politically corrosive effect on the Western political position that such bases often have. While it would be reassuring to keep all such bases indefinitely, in fact the trend is steadily to liquidate them, and it would be pleasant—just once—to be able to utilize base closings as bargaining counters for something the United States wants *before* withdrawal is announced.

The second broad United States policy which we recommend be applied consistently in all these regions is *to seek formal or informal undertakings among the suppliers of weapons to the countries concerned that they will not provide any arms other than those legitimately required for internal security needs. This would bar the sale or transfer of weapons that are commonly understood to be sophisticated, offensive, or expensive, along the lines suggested earlier of possible prohibited and permitted weapons.*

The verification of a generalized agreement, formal or tacit, not to supply arms in excess of internal security needs may be possible only through circumstantial evidence; but evidence of acquisition of wholly inappropriate arms by small or poor countries can scarcely be hidden. We can see no satisfactory punitive device available for infractions by

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either suppliers or receivers. If the agreement is widely violated, it probably is not recognizably in the common interests of the powers to continue it and it had better be abandoned.

One thing that *can* be done is for the United Nations to revive the League of Nations' most useful practice of widely publicizing statistics and other facts about the arms trade. Communications have improved considerably since the interwar period, and there might be few better sanctions than continuous publicity about arms races.

VIII

We have raised very complex issues without simple solutions. The wisest course for regional arms-control measures would probably be a broad-spectrum approach in which no particular region is singled out, and in which universally applicable principles and measures constitute the basis of United States policy. Perhaps the most important single reinforcement of a regional approach to security through arms control would be evidence that the great powers were pursuing with equal vigor measures of arms control applicable to themselves.

Global total disarmament remains a utopian objective. Even arms control that is universally applicable may be too much to hope for now. But the steps we have outlined for regional arms control, many of which lie within the present capacity of a few nations to execute, in our judgment rank in urgency very close to measures of arms limitation among the great powers. These proposals are moreover the most feasible and practicable policy steps for this country to take now in the arms field. The fact that these steps *are* real and practical possibilities constitutes one more reason (and perhaps the most undervalued one of all) for the United States to settle now upon an overall arms control and disarmament policy—upon a policy that conforms to the realities of the times, that reflects the urgent need for steps to reverse the present course of events, that sees the necessity of a believable position on less-than-total disarmament, and that relies on the wise use of the national power of the United States to lend confidence to a world still without trust.

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THE "SATISFIED" AND "DISSATISFIED" STATES NEGOTIATE INTERNATIONAL LAW

A Case Study

By ROBERT L. FRIEDHEIM

PEACE will be achieved, virtually all Western leaders say upon issuing a general statement on foreign policy, when all men learn to obey a common law. The achievement of world peace through world law is a popular solution to the problems of world politics of our times. However, creating a viable international law that all or even most states are willing to obey has proved difficult.

An examination of the two United Nations Conferences on the Law of the Sea held in Geneva in 1958 and 1960 will help illuminate some of the difficulties in creating a law to which there is common consent—and therefore in employing law as the road to peace.

This article will address itself—by an analysis of the content of the debates at Geneva—to the different attitudes that representatives of states and bloc groups brought to the negotiating table. Because the difference in attitudes was so sharp, the conferences proved to be less successful than hoped for by advocates of world law. Not only were participants split on the question of the substantive content of the law, but they also differed on the nature of the international system, present and future, and on the proper means of negotiating law in a United Nations-sponsored conference, which is itself a special political area with distinctive characteristics.

I

The first set of attitudes to be considered is that of those states at the law of the sea conferences who were dissatisfied with the legal status quo. They cannot all be labeled "new states," although most were. Although many were, not all were "revolutionary states" who felt compelled to "export their ideological impetus."[1] Nor can they be described as lacking an international-law tradition, because the Latin

[1] Richard A. Falk, "Revolutionary Nations and the Quality of International Legal Order," in Morton A. Kaplan, ed., *The Revolution in World Politics* (New York 1962), 323.

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American states, which are included in this category, are very much in that tradition. Rather, the common factor was that these states were "have-not" states, most of whom were located in the southern half of the world, and most of whom believed that their interests were not served by present concepts of international law. This is not an unusual position for those who consider themselves underdogs to take. However, the verbal vehemence with which they expressed their revolt against the past trend of international law seemed to shock those participants in the conferences who were "satisfied" with international law. This antagonism resulted in a clash of wills on many important issues, with each side seemingly incapable of understanding the attitudes and modes of operation of the other.

The "dissatisfied" were heavily represented at the law of the sea conferences. The core of this category was composed of states that in the United Nations General Assembly are associated with the Asian-African, Arab, and Latin American caucusing groups and the anticolonial common-interest group.[2] These constituted fifty-four of the eighty-six states represented at the first conference, and fifty-six of the eighty-eight at the second. In addition, some of the members of the underdeveloped common-interest group who were not also members of the regional and anticolonial groups felt discriminated against under present concepts of international law.[3]

The key attitude expressed by the dissatisfied states was a strong, conscious, and often expressed belief that the conference process was a *political* process. They clearly understood that their operations were to be guided by practices usually known collectively as parliamentary diplomacy. This meant bloc organization, bloc voting, bloc-sponsored proposals, bloc-sponsored candidates for the elective offices of the conferences, and bloc attempts to manipulate the rules of procedure. The groups of the dissatisfied were the most organized, evident, and

[2] Although the Soviet-bloc states are members of the anticolonialist group, a full discussion of their conduct must be omitted for reasons of space. However, it should be pointed out that the Soviet-bloc states should not be classified as "dissatisfied." Although often allied with the dissatisfied, the Soviet bloc did not participate in the all-out assault on law *per se* so characteristic of the dissatisfied states. The positions adopted by the Soviet Union (and her satellites) at the conferences were typical of a conservative revolutionary state ambivalently trying to accomplish two ends—on the one hand, export of revolutionary principles and harassment of cold-war enemies; on the other, a genuine attempt to negotiate commonly accepted legal principles in areas where important material interests would be protected if normative behavior could be enforced. For a discussion of conservative revolutionary states, see Falk, 315.

[3] The reader should not assume that the characteristics ascribed to a category of states created for purposes of analysis are wholly applicable to all states that generally fall into that category.

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self-conscious at the conferences. Mr. Ahmed Shukairi, chairman of the Saudi Arabian delegation, was very outspoken in referring to the Arab states "attending the conference . . . as a voting group."[4] Other instances of frank references to blocs are too numerous to list. The dissatisfied took advantage of their numbers by frequently sponsoring multinational proposals.[5]

Probably the major reason why the dissatisfied considered the conference process as political and why a considerable number of representatives reflecting this position demonstrated great parliamentary skill was the large proportion of dissatisfied delegations which had as representatives men with recent General Assembly experience. Twenty of the dissatisfied states had at least one representative (five states had several) who was not only a "professional diplomat" but also—in Philip Jessup's phrase—a "professional parliamentarian."[6] Three other delegations had senior advisors who learned the art of parliamentary maneuver in the General Assembly.[7]

This is not to say that the dissatisfied controlled the conferences either by dominating a majority of the votes taken or by getting a majority of their proposals accepted. While the incidence of bloc voting was relatively high among the dissatisfied groups, so were the absence rates of members, which reduced the number of total votes the group cast. None of the dissatisfied except the underdeveloped group was among the groups that most frequently voted with the majority. But their evident, organized efforts constantly harassed their opponents, and frequently forced them either to water down or to withdraw proposals opposed by the dissatisfied bloc. Even more important was the ability of the dissatisfied groups to mobilize their numbers to dominate voting on key proposals. While their general record for effectiveness was not good, they could point with satisfaction to several successful attempts to block passage of the various United States proposals for a six-mile territorial sea and a twelve-mile contiguous

[4] United Nations Conference on the Law of the Sea, *Official Records*, Vol. III, First Committee (A/CONF. 13/39), 4th meeting, par. 30. Hereafter all citations from the records, documents, or reports of both UN Conferences on the Law of the Sea will be made with the official UN document number.

[5] See, for example, A/CONF. 13/C.5/L.6 (19 "dissatisfied" sponsors), A/CONF. 13/C.3/L.65, 66, 66/Rev. 1 (12 sponsors), A/CONF. 19/C.1/L.2/Rev. 1 (18 sponsors), A/CONF. 19/C.1/L.6 (16 sponsors), A/CONF. 19/L. 9 (10 sponsors), among many others.

[6] "International Negotiations Under Parliamentary Procedure," *Lectures on International Law and the United Nations* (Ann Arbor, University of Michigan Law School, 1957), 419.

[7] These figures were compiled from the list of delegations to the Conferences on the Law of the Sea and to Sessions XII, XIII, XIV, and XV of the General Assembly.

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fishing zone, and to force elimination from a British proposal of a fifteen-mile limit on the use of straight baselines. They could also point to more positive victories such as enlarging to twenty-four miles the baseline to be drawn from headland to headland in delimiting bays, forcing through an Indian proposal which gave the coastal state "sovereign" rather than exclusive rights over the continental shelf, and gaining majorities for several proposals sponsored jointly by Asian-African and Latin American states which increased the authority of the coastal states over fishing in waters off their coasts.

The satisfied states were annoyed by the political strategy used by the dissatisfied. But they were profoundly shocked by the dissatisfied's analogous assumption—that the *subject matter* to be dealt with in the conferences should also be political. The dissatisfied made frequent reference to the General Assembly resolution that allowed political factors to be considered in formulating the law of the sea: "[The conferences] should take into account not only the legal but also the technical, biological, economic, and political aspects of the problem."[8] These states early in the first conference made it evident that they understood this to mean carte blanche to fight for furthering what they conceived of as their own interests. While this motive was not uncharacteristic of most participating states and groups, the dissatisfied seemed more conscious of their interests and more outspoken in defending them.

A statement by the Vietnamese delegate, Mr. Buu-kinh, in a debate on the continental shelf, can scarcely be plainer: "His delegation would prefer to see the criterion of depth alone retained, particularly as the waters off its own shores were relatively shallow and did not reach a depth of 200 metres for more than 200 miles."[9] The Mexican delegate, Mr. Gomez Robledo, in discussing a Canadian proposal on reservations to any convention signed as a result of the conference, was equally candid: "Representatives wishing to permit reservations had been reproached for defending national interests; but they were attending the conference for that very purpose."[10] Or, as Mr. Caabasi of Libya flatly remarked about a United States proposal on the breadth of the territorial sea: ". . . His delegation had voted against the United States proposal because it contained provisions which were contrary to his country's interests."[11]

[8] General Assembly Resolution 1105, XI Session, par. 2. For example, see A/CONF. 13/42, 19th meeting, par. 33.
[9] A/CONF. 13/42, 11th meeting, par. 14.
[10] A/CONF. 13/38, 9th plenary meeting, par. 34.
[11] *Ibid.*, 14th plenary meeting, par. 66.

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Since these dissatisfied states were so insistent and outspoken in asserting that the conference process was a political means of attaining their own national interest, they were no less definite in assigning to the states opposing them the same self-interested motives. For example, Dr. Alfonso Garcia Robles of Mexico, advocating a broad belt of territorial sea, ascribed to the narrow-seas advocates the motive of sheer self-interest. He ignored entirely any reference to traditional historic and legal doctrines of freedom of the seas: "It had been suggested that the States whose fleets carried almost all the world's maritime transport should be asked why they opposed the extension of the breadth of the territorial sea to twelve miles. He could not see what would be the point in putting such a question. Gidel had given the answer when he had stated that a dominant factor in the dispute was the inequality of sea power; the greater a State's sea power, the more it would tend to limit the breadth of its territorial sea, for it had no need to look to international law for means to exercise special powers over a broad zone of sea adjacent to its coasts. Unfortunately, the maritime powers, which were usually also fishing powers, were not confining themselves to exercising special powers in the areas of sea adjacent to their coasts, but were only too often attempting to exercise them in the territorial sea of other countries, too."[12]

Just as these states saw the conference process in terms of politics and their own interests, so they regarded international law. They saw it as a cloak, a set of ideas used to camouflage self-interest, the domination by the few of the many. Nothing could be more candid than these remarks by Dr. Jorge Castaneda of Mexico: "Rigid adherence to the traditional rules of international law could prove disastrous to all concerned, for the traditional rules on the regime of the sea had been created by the great Powers for their own purposes before many major problems had arisen and before the birth of the new states which now formed the majority."[13]

The same theme was repeated again and again by delegates of many of the dissatisfied states. For example, Mr. Ba Han, of Burma: ". . . In the past international law had been a body of rules and usages adopted by powerful states. However, the international situation had changed and new sovereign independent states had emerged, keenly conscious of their liberty."[14] Mr. Ulloa Sotomayor, of Peru: "Rules of international law had sometimes been unilaterally created in the interests of

[12] A/CONF. 19/8, 10th meeting, par. 12.
[13] A/CONF. 13/41, 13th meeting, par. 22.
[14] A/CONF. 13/39, 4th meeting, par. 6.

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great powers; it was therefore reasonable for certain rules of law to be initiated by small States in their legitimate interests. . . . It was inadmissible that a sort of colonialism of the high seas should be allowed in the name of freedom of the seas."[15] Mr. Diallo, of Guinea: "With regard to 'historic rights,' . . . the concept was nothing other than a manifestation of the right of the strongest and a vestige of colonialism, which [Guinea] would oppose in all its forms. To perpetuate those rights would be a grave injustice to the young States that were struggling not only for political but also for economic independence."[16]

This attitude was not exclusive to the more vociferously dissatisfied anticolonial states, but also affected even friends and allies of the West. For example, Mr. Vu Van Mau of Vietnam observed that the purposes of the first United Nations law of the sea conference had been ". . . to single out from a mass of unilateral practices anarchically applied those which corresponded to rules of law, so that they could subsequently be adopted to the new needs of mankind and to the aspirations of emergent States."[17] And the Iranian delegate, Mr. Dara, said emphatically, "A great many delegations would not accept servitude to the large maritime Powers which wished to fish in the waters of the other States."[18]

These views of the dissatisfied are, in effect, a denial of the entire history and body of international law. Several Latin American delegates did in fact deny that the great international-law writers of the past had ever had anything more in mind than protecting the interests of the states or organizations to which they owed allegiance. As Mr. Melo Lecaros of Chile put it, ". . . The rise and development of the law of the sea had been prompted by one single factor: interest. Political or economic interest had always prevailed in defining the law of the sea through the centuries. Grotius had not argued for the freedom of the seas simply as an intellectual concept, but to defend the interests of the Dutch East India Company. Selden's sole aim in refuting Grotius had been to defend England's interests. Things had changed very greatly since that time. The rule of law had been extended, but it was impossible to overlook the fact that the reason for the existence of law was interest. Law had been created by man for the use of man."[19] Mr. Llosa of Peru also felt it necessary to tilt against

[15] *Ibid.*, 5th meeting, par. 13.
[16] A/CONF. 19/8, 18th meeting, par. 6.
[17] *Ibid.*, 3rd meeting, par. 6.
[18] A/CONF. 13/38, 20th plenary meeting, par. 70.
[19] A/CONF. 19/8, 14th meeting, par. 13-14.

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Hugo Grotius, the very "father of international law," who, he said, ". . . did not write a work on international law but a treatise to vindicate the claims of the Dutch East India Company, by whom he had been retained, to freedom of navigation and trade."[20] So international law had moved in the wrong direction from the outset!

The dissatisfied states were acutely aware of the factor of time in regard to international law. The new states among the group, those who often set its tone and behavioral pattern, were quite naturally very conscious of their own recent independence and separate national existence. They demanded that international law take them into account, and consider their interests and desires; they demanded participation and the right of consultation in formation of international law. Among innumerable statements of this attitude are the following two examples. Mr. Subardjo of the Philippines: ". . . The law of nations must take into account the fact that since the Second World War former dependencies and colonies in Asia and Africa had achieved the status of sovereign States."[21] And Mr. El Bakri of Sudan: "Those who had described the present conference as the third to codify the law of the sea, counting the Hague Codification Conference of 1930, had overlooked one of the major developments which had taken place since 1930, namely, the number of countries that had become independent and which, with their different outlook, had taken their rightful place in the international community. In considering the problem of the breadth of the territorial sea, full account must be taken of the changes in institutions and ideas that had supervened during the past thirty years, and the final solution would have to accord with the contemporary spirit of social and political progress."[22]

A close and perhaps necessary corollary of this extreme self-consciousness is that the new states and their allies did not recognize, and would not consider binding upon themselves, that law which was created before they became independent states. Expressions of this attitude at the conferences abound. Mr. Bocobo of the Philippines: ". . . The newer countries valued their freedom above all else and refused to accept certain rules of international law evolved before they had attained statehood."[23] Mr. Loutfi of the United Arab Republic: ". . . The majority of the new countries that had gained their independence since [the Hague Conference of 1930] had adopted a limit

[20] A/CONF. 13/41, 23rd meeting, par. 11.
[21] A/CONF. 13/39, 7th meeting, par. 1.
[22] A/CONF. 19/8, 19th meeting, par. 14.
[23] A/CONF. 13/39, 50th meeting, par. 1.

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in excess of three miles. Their argument that the three-mile rule constituted a principle of international law was thus devoid of substance."[24] Mr. Ba Han of Burma ". . . could not accept the suggestion that abandonment of the three-mile rule was a concession. That alleged rule had been established by others at a time when his own country, for one, was completely helpless under foreign rule."[25]

There was an impatience with, rather than a reverence for, age and tradition, a feeling that the old laws should be swept away or remolded so that the newer states could help create new laws for new conditions. In stating Afghanistan's position on the access of landlocked states to the sea, Mr. Tabibi remarked: "Besides, many of [the international instruments in question] were very old and an historic conference such as the present should replace them by others which would contribute to the development of international law, particularly since the signatories of the instruments relating to the rights of landlocked countries were mainly European countries."[26] Mr. Hekmert, explaining Iran's vote against a United States-proposed amendment to the International Law Commission draft, stated that he ". . . agreed with the arguments advanced against the proposed [amendments]. The International Law Commission, in whose proceedings he had taken part, had not forgotten the existence of the 1884 Conventions when it drew up articles 62 and 65. It had nevertheless felt that the provisions embodied in those articles were more in line with twentieth-century conditions. The group of Afro-Asian states now numbered more than thirty, whereas, in 1884 there had not been more than five or six independent states in that part of the world. In the days of the 1884 Convention international law had been largely a matter of concern to western countries. It was important that it should now be applicable and accepted on a world-wide basis."[27]

The keynote, the driving force, of this attitude was the need for change. Change for these states replaced history and tradition as a commander of respect. Symbolic were the remarks of the Korean delegate, Mr. Kim: "Several representatives had stressed how useful the three-mile limit had been in the past—at a time when it had been consistent with prevailing conditions. But those conditions had changed, and the three-mile limit was no longer adequate. Korea . . . earnestly hoped the Conference would adopt a principle better adapted

[24] *Ibid.*, 21st meeting, par. 4.
[25] A/CONF. 13/38, 14th plenary meeting, par. 51.
[26] A/CONF. 13/43, 8th meeting, par. 32.
[27] A/CONF. 13/40, 31st meeting, par. 24.

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to the varying conditions obtaining in the different parts of the world."[28] Consistent with their enthusiasm for change, the dissatisfied states were fond of calling those who were satisfied with the main aspects of international law "conservatives," while their own group was labeled "progressive."

Their devotion to change in international law was based on political, economic, and, particularly, technological changes in world conditions: "Legal rules had to develop at the same pace as modern technology"; and "existing rules might no longer be practical because of changed conditions." But it is clear that such statements were only a rationalization for a more profound sentiment. Without being fully aware of it, the dissatisfied states had returned to an older concept: law equated with justice, and further, with justice defined in relation to themselves. The older foundations of international law, having been established before the independent existence of these states, when they were "completely helpless under foreign rule," without regard for their welfare, could not be regarded as just; and since the law was unjust, it must be changed. Any change, in their view, was therefore a change for the better.

Justice to themselves was paramount, and it was elevated to the level of principle. But while they treated certain matters as principles, they rarely handled them in legal terms. They preferred to emphasize strictly political doctrines—coastal rights, wider areas of sea control—and to have these issues stated as vaguely as possible. In their practical, pragmatic, nonhistorical manner, they had no use for doctrine *qua* doctrine. Legal doctrine was for them political; they made no distinction in bargaining between legal matters and any other international problem. A speech by Mr. Quarshie of Ghana illustrates well the paradoxical concern for "principle" (justice) and disregard for law: "The African States, which had seen their continent divided among the great Powers without the consent of the populations concerned, found it difficult to understand the moral arguments now advanced against the division of the sea. That division was essentially a practical matter. The needs of shipping varied according to the region, and a 200-mile limit might be suitable in one place but unsuitable in another. Requirements also varied with time; for instance, the contiguous zone was now far more important than it had been in the past."[29]

The dissatisfied states, then, tended to use "doctrine" and "principle"

[28] A/CONF. 13/39, 15th meeting, par. 14.
[29] A/CONF. 13/38, 21st plenary meeting, par. 21.

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not as bases for consistent legal philosophy, but, somewhat opportunistically, to attain their own political-economic ends, which they considered "justice." Frequently this resulted in absurd inconsistencies, but these states were not concerned with doctrinal purity—as U Mya Sein of Burma remarked characteristically, "There was an over-emphasis on legal niceties."[30] A good example of this was the position the dissatisfied states took on the issue of sovereignty.

Of all the juridical concepts developed in the long history of international law, the most meaningful to the dissatisfied states was sovereignty.[31] They defined the concept very rigidly so that no external political unit, nor any obligation made, could deprive them of their sovereign rights as they defined and understood them. Sovereignty to them was a symbol of their independence. The dissatisfied were not, however, concerned with the development of a logical theory about the symbol, but rather with the preservation of the facts for which the symbol stood. They pressed ardently for sovereignty over the continental shelf, for control of fisheries off their shores as an extension of their sovereignty, and for a wider belt of territorial sea in which to exercise their sovereignty. These states were also adamant opponents of any scheme that conveyed to an international court or arbitral group compulsory jurisdiction over questions touching upon a state's sovereignty. They were concerned with the preservation of their own sovereignty even at the risk of impinging upon the sovereignty of other states. Afghanistan, Bolivia, Ghana, Indonesia, Laos, Nepal, Paraguay, Saudi Arabia, Tunisia, and the UAR (among nineteen sponsors), all ardent supporters of an absolute theory of state sovereignty, were able to introduce with no qualms a proposal that would give a landlocked state an absolute right of transit across the territory of a coastal state, thereby possibly impairing the sovereignty of the latter.[32] India, a leading advocate of sovereignty of the coastal state over its continental shelf, making no attempt to explain away the seeming inconsistency of her position, introduced a proposal that would prevent the "sovereign" coastal state from "building military bases or installations [on] the continental shelf."[33] Thus sovereignty was not treated as a juridical idea to be developed so that the same legal rules would be applicable to all states equally; it was, instead, appropriated by the

[30] A/CONF. 13/42, 19th meeting, par. 33.

[31] See the general debates of the Fourth Committee for views of the dissatisfied on sovereignty. A/CONF. 13/42, 1st meeting–29th meeting.

[32] UN Doc. A/CONF. 13/C.5/L.6.

[33] UN Doc. A/CONF. 13/C.4/L.57.

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dissatisfied as a means of maintaining tactical freedom. This was typical of their opportunistic use of legal doctrine and principles.

The significance of the dissatisfied states' wholly *political* attitude toward international law was that these nations were unable to differentiate between political and legal reality. They assumed, incorrectly, that political reality was identical with legal reality. These states, firm opponents of the three-mile territorial sea, assumed and pronounced it politically "dead and buried" when "two of its traditional champions had withdrawn their support."[34] However, while it is probably true that the three-mile limit is no longer politically viable—that is, there is very little chance of its being accepted by states that do not already adhere to it—it is not true that it is dead and buried in legal terms. As long as states that had traditionally held to the three-mile rule continue to affirm it, it will be the rule applied by them off their coasts and in their courts. Moreover as Mr. André Gros, representative of France, pointed out, it "was the only rule that did not need express recognition by the international community."[35]

The dissatisfied states also tended to assume that a resolution, sponsored by ten of them, establishing a twelve-mile fisheries zone was already part of international law, without any conference adoption. This presumption was based upon the willingness of opponents to consider the measure as a political possibility, a point for negotiation—that is, it was politically viable, but certainly not established international law.[36] On the other hand, at times the dissatisfied states were unwilling to recognize as international law that which had just been adopted by a majority of states. After a Swiss proposal on questions of landlocked countries had been adopted, the dissatisfied states, which had supported an unsuccessful nineteen-power proposal because it created new rights to overcome past injustices to landlocked states, claimed the contents of that defeated proposal to be "the existing rules of international law."[37] Thus, insistence upon the exclusively political nature of proposals which they wanted codified, led these states to a position in which communication with the more legally oriented nations was difficult and negotiation virtually impossible.

A few final characteristics of this attitude should be mentioned. The dissatisfied states displayed a typical "have-not" distrust of the expert.

[34] A/CONF. 13/39, 53rd meeting, par. 17. For other death pronouncements see *ibid.*, 54th meeting, par. 1 and 15; 55th meeting, par. 35; A/CONF. 19/8, 20th meeting, par. 26.

[35] A/CONF. 19/8, 20th meeting, par. 12.

[36] *Ibid.*, 12th plenary meeting, par. 24.

[37] A/CONF. 13/43, 25th meeting, par. 40-43.

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He was identified with the colonial powers, the West, and was therefore somewhat feared and resented. Mr. Quarshie of Ghana expressed the psychological reaction of the underdeveloped states to Western technical expertise: "Ghana feared the exploitation of its fishing resources and threats to its security; it sought a solution which would guarantee it a maximum freedom from exploitation and threats. Its fears could not be allayed by exhibitions of technical knowledge or outright dismissal of its views. In consultation, the main point often lay less in the validity of the argument itself than in the reaction to that argument."[38] The Mexican delegate, Mr. Gomez Robledo, also expressed well the resentment of the learning and expertise of international-law specialists of older, and especially of European, states: ". . . Although the Mexican delegation had the greatest respect for recognized experts in international law, it should be remembered that the Conference was not a university but an assembly of sovereign states. Furthermore, every country in the world could now inform itself as to the true meaning of sovereignty and no state had a monopoly of learning on the matter."[39]

Along with their fear of the expert went an unwillingness to commit themselves to legal details on the exercise of rights and duties under consideration at the conferences. Legal detail was viewed by them as a trap for the inexperienced or the unwary. In part, the reason that they preferred vaguely general statements to more exact definitions of legal rights and obligations was their lack of technical expertise. The dissatisfied states constantly feared that their agreement to a detailed proposal would create obligations for them that their negotiators could not perceive. Moreover, agreement on detailed solutions to problems in the law would have reduced their tactical mobility, which they did not wish to have happen. Relatively weak in power terms, they saw as their main protection from the physically powerful states both the ability to avoid being permanently obligated to perform required acts and the ability to perform acts not yet sanctioned by law. They preferred that legal rights and obligations be no more than moral imperatives—broad legal obligations that should be fulfilled but whose enforcement is backed only by the sense of obligation of the affected state itself. Since their sense of obligation to the idea of law is weak, the law is weak. As a result of their preference for vagueness, many provisions sponsored by dissatisfied states embodied in the con-

[38] A/CONF. 19/1, 25th meeting, par. 22.
[39] A/CONF. 13/38, 9th plenary meeting, par. 60.

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ventions, should they come into force, will present new ambiguities for states to continue to dispute.

II

Those states with an international-law tradition manifested a behavioral pattern very different from that of the dissatisfied states. This group included all states represented that had a Western European political tradition—some twenty-three states in all. The core of the category was composed of the Western European, Benelux, European Community, and Scandinavian caucusing groups, and the NATO common-interest group. Usually voting with these groups were the "White Commonwealth" states, five European states not represented in the General Assembly, and Israel. In addition, the votes of five United States cold-war allies—Japan, Pakistan, and the Republics of China, Korea, and Vietnam—could frequently be counted upon by the satisfied.

Although heavily outnumbered, the states in this category can be said statistically to have dominated the conferences. All the satisfied groups were able to command the votes of their members approximately eighty percent of the time on substantive issues. They also had an outstanding record of voting with the majority on both substantive and procedural issues. With additional votes coming from the five non-UN-member European states and the five United States cold-war allies, the satisfied voted with the majority on forty-three of sixty-six roll-call votes on substantive issues, and on ten of twelve votes on procedural issues. Another significant index of the "success" of the satisfied was the high percentage of proposals made by its members that were adopted by the conferences. Eighteen states each proposed more than two percent of the total number of amendments adopted. Of these states, fourteen were either in the satisfied category or were states such as Japan and Pakistan that ordinarily voted with the satisfied.

It should be noted, however, that statistics on the law of the sea conferences do not tell the whole story of the successes and failures of the satisfied. Although they controlled a majority of the votes taken, and proposed most of the amendments accepted, the satisfied failed to gain majorities for their proposals on *key issues* such as the breadth of the territorial sea and fishing rights in areas beyond the territorial sea. They failed here because they were unable to persuade the dissatisfied that the measures desired also guarded the interests of the dis-

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satisfied. The failure can be laid in large part to the fact that the satisfied couched their arguments in terms of traditional law—which the dissatisfied did not recognize and would not accept—instead of in terms of more realistic political-economic bargaining. Although their political positions at the conferences were not uniform—ranging from flexibility on the part of the United States and the United Kingdom to extreme conservatism and legalism on the part of continental powers such as France and the Federal Republic of Germany—still they shared a common belief that international law exists, that it is fundamentally just, that it provides a hope for adjustment of interests as well as protection of interests. They showed clear agreement with the broad background of sea-law doctrine and its cornerstone, freedom of the seas. Many states showed great pride in their past roles as formulators of international law: the Dutch continually invoked Grotius and Bynkershoek; the Spanish, Vitoria; the French, their great international lawyers.

Naturally, the satisfied relied heavily upon technical experts to staff their delegations. Twenty satisfied states had one or more legal experts from their government legal departments, foreign offices, or leading universities as full representatives at the conferences. Eighteen of the satisfied also had as representatives men from their ministries of food, fisheries, transportation, navy, communications, and commerce. In addition, all of them brought to Geneva large delegations of advisers with legal or technical expertise. On the other hand, only five of the satisfied states—Australia, Canada, Greece, Italy, and Spain—had as representatives diplomats with recent experience in the political practices of the General Assembly.

Unfortunately the satisfied states' concept of law interfered with their understanding the process by which law must be negotiated in a contemporary international setting. They did not act as if they understood that the political process by which substantive questions are negotiated will itself help shape the results. In particular, many of the satisfied refused to admit that conferences with legal subjects on the agendas are political—that they provide forums in which agreements are forged by states when they believe that such agreements protect their mutual interests. Moreover, United Nations-sponsored conferences are legislative in nature. That is, they operate under the rules of parliamentary diplomacy, and decisions depend upon forming majorities. In such an arena, it is extremely difficult, and perhaps impossible, to create a majority that will vote for and be willing to be bound by what it believes to be an abstractly perfect legal or ad-

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ministrative formula. The satisfied tended to view the conferences as an opportunity to promulgate a legal code consistent with their international-law doctrine. They viewed apprehensively the possibility that past law and the international-law tradition were only two factors among many that would be considered in creating conventions to which a majority of states could agree politically. Such conventions would add to mere codification an element of progressive development—that is, the creation of new rules of international law—which the satisfied delegates deplored.

The remarks of Swedish delegate, Mr. Sture Petren, illustrate precisely the reluctance of the satisfied to accept the notion of progressive development: "Mr. Petren . . . emphasized the difference between the 'progressive development' of international law and its 'codification.' In practice, the development of law and its codification could not easily be separated. . . . Any conventions which might be drafted by the Conference, whether they related to the codification or the development of law, would therefore be of a mixed nature, containing both old rules of law and new ones. These two kinds of law had not at all the same legal effect. The old rules, if they were based on customary law, bound all mankind independently of the new conventions to be concluded, whereas the new rules, which would come into being only through the conventions, would bind only those states which signed and ratified those conventions. Other states would not be bound to recognize or observe them. The Swedish delegation therefore felt that the Conference should proceed with caution, and should not depart too radically from existing law."[40]

The satisfied delegates were not averse to using political tactics at the conference; in fact they were quite skilled at forming voting groups, making bloc proposals, lobbying, and manipulating the rules of procedure. All the while they were publicly deploring the very use of such tactics by others and implicitly apologizing for finding it necessary to use them themselves. One after another satisfied delegate took the floor to excoriate blocs and bloc voting. They felt issues should be handled as ideas "on their merits." Typical was a British appeal to de-emphasize national and bloc interests for "wider considerations."[41]

Another major blunder of the satisfied states was their failure to answer the charge of the dissatisfied that the former were interested in preserving the present law because it protected their own interests.

[40] A/CONF. 13/39, 6th meeting, par. 1-2; see also par. 24-25; 18th meeting, par. 10.
[41] A/CONF. 13/39, 53rd meeting, par. 10.

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It is true that their interests did coincide with their doctrinal views. Their key doctrine, freedom of the seas, while theoretically opening the seas to all, in practice can only be exploited by those who have existent navies and merchant fleets. The satisfied states are the biggest shippers, have the biggest surface fleets, have large, important trade and fishing interests. But the satisfied states could have answered this accusation in political and economic terms, and have declared that freedom of the seas is open-ended and in fact generous to small powers, since without it the powerful could physically control large areas of the sea.

Dumbfounded by the attack of the dissatisfied on what the satisfied regarded as a liberal concept, the latter fell back on rigid, legalistic defenses. At times this tactic was used politically simply to discourage change. But the evident dismay of many satisfied delegates indicated that they could not understand the need to answer this attack by different tactics and different language. All they could do was deplore the attack on the law of the sea. For example, Dr. Max Sorensen of Denmark felt that ". . . a trend which, over the past few decades, had weakened rather than strengthened the authority of the international law of the sea should be halted, and Denmark would cooperate wholeheartedly with other nations in restoring the authority of the law."[42]

There were exceptions. Occasionally one of the less powerful states with an international-law tradition such as New Zealand, Greece, Switzerland, Australia, or Sweden,[43] would defend the law of the sea not only as useful for the great seagoing powers, but also as valid for lesser and developing states. (Of course, these nations were themselves in the international-law tradition, and the law of the sea did serve their interests to some extent.) And, although they did not always act accordingly, both the United Kingdom and the United States occasionally recognized that explaining international-law doctrine in traditional terms did not appeal to the newer dissatisfied states, but only contributed to their suspicion and fear of the West.[44]

But these were only exceptions; the rule was a rather inflexible legalism and refusal to answer the dissatisfied states' political attack against

[42] *Ibid.*, 4th meeting, par. 10.

[43] *Ibid.*, 9th meeting, par. 10, 18; 16th meeting, par. 18; 17th meeting, par. 11; 44th meeting, par. 11, respectively.

[44] A/CONF. 13/43, 21st meeting, par. 40. See also Loftus Becker, "Some Political Problems of the Legal Advisor," *Department of State Bulletin*, XXXVIII (May 19, 1958), 835; and U.S. Senate, Committee on Foreign Relations, *Conventions on the Law of the Sea*, Hearings, 86th Cong., 2nd sess. (Washington, January 20, 1960), 5.

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the norms of traditional international law. The satisfied states had come to the conference not to adjust interests but to argue law. They did so to the detriment and sometimes to the exclusion of political-economic questions. The Federal Republic of Germany, for example, refused to recognize that fishery conservation was a problem and therefore refused to sign the convention on that subject.[45] Germany also consistently doubted the validity of the idea of the continental shelf in international law. Most of the satisfied states shared this belief. There is of course a legal case for this position; that is, the concept of the continental shelf is not of ancient lineage and is not therefore part of customary international law. In that case, they insisted, their consent was necessary to bring the concept of the shelf under law binding on them. But when they reluctantly did accept the idea of the shelf, it seemed no compromise to the proponents of the shelf concept, since it had accumulated sixteen years of state practice by those states with an active interest in exploring or exploiting the shelf. By adopting a legally sound but extraordinarily conservative position, and then agreeing to no more than had been in practice for years, they gave their negotiating techniques an air of hollow unreality and empty legalism.

Too often delegates of satisfied states would not even concede any necessary relationship between law and politics. They saw law as an abstract perfectible entity, divorced from the compromises required by the politics of competing state interests. Consider the following remarks of Professor Paul de la Pradelle, the Monacan delegate: ". . . It was difficult to disentangle the law of the sea from the accretions imposed by national sovereignty. He hoped that one day the compromise formulae produced by the 'diplomacy of the sea' would give place to a true law of the sea, in harmony with the [United Nations] Charter."[46] Little wonder that the satisfied states were unable to cope with problems of negotiating legal subjects at a conference which was, after all, a political arena!

Just as the political emphasis of the dissatisfied states led them to fear detail in drafting and to eschew expert opinion and technical arguments, so the legal emphasis of the satisfied states led them to a firm reliance on just such techniques. Because these primarily Western states had interests in many diverse aspects of activities dealing with the sea, and had the necessary legal and technical resources, they submitted a large number of very detailed proposals. One difficulty

[45] A/CONF. 13/38, 18th plenary meeting, par. 74-77.
[46] A/CONF. 19/8, 23rd meeting, par. 17.

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for these states as a group was that there were often numerous competing proposals from states with similar outlooks. One of the many examples of very detailed proposals is a Dutch revision of the International Law Commission Draft Article on the continental shelf. The original paragraph 2 read: "Subject to the provisions of paragraphs 1 and 5 of this article, the coastal state is entitled to construct and maintain on the continental shelf installations necessary for the exploration and exploitation of its natural resources, and to establish safety zones at a reasonable distance around such installations and take in those zones measures necessary for their protection."[47]

This sentence was expanded by the Dutch to read: "Subject to the provisions of paragraphs 1 and 5 of this article and within the limits mentioned in article 68, the coastal state is entitled to construct and maintain or operate installations and other devices in the said areas necessary for the exploration and exploitation of their natural resources. The said installations and other devices shall be surrounded by a safety zone of 50 metres radius prohibited for all vessels except exploration and exploitation craft. A group of such installations and devices shall be considered as one unit if the distances are less than half a nautical mile. Entrance into such units is forbidden for all ships of more than 1,000 registered tons, except exploration and exploitation craft. If such a unit is more than 10 nautical miles long, a fairway of one nautical mile wide shall be provided in the middle, and properly marked, without prejudice to paragraph 5. The area inside such units shall be a prohibited anchorage."[48] Like many other detailed proposals, the Dutch draft alienated several of the Netherlands' natural allies. In this case, the United Kingdom also proposed an amendment whose purpose was the same as the Dutch amendment, differing only in length and wording. The result was a quibble among states whose position was basically the same.

Submission of competing amendments to the same article, differing only in detail, was characteristic of the satisfied states at the conferences. Only infrequently would a legal specialist from one Western state agree that another's handling of details was technically correct and sufficiently comprehensive to cover all contingencies. This often meant that states of similar outlook which submitted proposals differing only in detail would maintain their competing proposals into the voting stage, instead of uniting to back one of the texts. As a result, it became difficult to get a detailed proposal adopted. When no agree-

[47] UN Doc. A/3159.
[48] UN Doc. A/CONF. 13/C.4/L.22.

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ment on details could be reached among these states, the committee or the conference adopted the most general proposal or the original International Law Commission text. While the desire of the legally sophisticated to write comprehensive codes is understandable, it would have been much more to the point to put greater effort into forming a consensus on basic issues. Without such a consensus, it is impossible to negotiate on details.

When the satisfied states tended to submit detailed proposals, their justifications and explanations for the proposals were of course complex legally and technically. These remarks were not, could not be, directed to the delegates from the dissatisfied states who most needed convincing. The dissatisfied delegates were never shown why certain proposals were not contrary to their interests and could indeed have been interpreted in the interest of all. Because the dissatisfied, suspicious of the satisfied states' position at the outset, were never sufficiently convinced by the arguments of the satisfied states' delegates, they tended automatically to oppose changes in the International Law Commission draft proposed by satisfied states. For example, it is difficult to see how a change requested by the United Kingdom in the definition of a pirate ship or aircraft should have been contrary to the interests of the dissatisfied. The International Law Commission draft had defined such craft by a clause of "intent"—that is, a craft was a pirate ship if "it is *intended* by the persons in dominant control to be used for the purposes of committing"[49] an act of piracy. The British desired to make the definition of fact; a pirate ship is one "which has been used to *commit* any acts of piracy."[50] Characteristically, another satisfied state, Italy, submitted another similar proposal.[51] Neither delegation clearly explained the legal difference between intent and act. Both proposals failed; the International Law Commission text was adopted.

The satisfied states placed reverent reliance upon expert opinion, particularly that of the great French expert on law of the sea, Gilbert Gidel, who was a delegate to the first conference. Great resentment was expressed by delegates of the satisfied states, the French in particular, when the dissatisfied states used a statement of Gidel's, taken out of context from a work written in 1934, to attack the three-mile limit: "La prétendue regle des trois milles a été la grande vaincue de

[49] UN Doc. A/3159 (italics added).
[50] UN Doc. A/CONF. 13/C.2/L.83 (italics added).
[51] UN Doc. A/CONF. 13/C.2/L.81.

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la Conférence."[52] M. Gros, the chief French delegate, attacked the newer states for misquoting Gidel and mishandling expert opinion.[53] Furthermore, he informed them that, while expert opinion by its very nature is free of national or group bias, Gidel's opinion had the added authority of being practically synonymous with the position of the French Government.[54] Ironically, and sadly for those states who revered the opinion of Professor Gidel and the experts, Gidel's proposed revision of the International Law Commission definition of the high seas, a masterpiece of drafting exactness, failed of adoption. This could not have eased the resentment felt at the "misuse and abuse" of expert opinion.

Another tendency of Western and international-law-minded states was, not surprisingly for those legally oriented, to re-argue decided cases in international law. In particular, the *Lotus Case* and the *Anglo-Norwegian Fisheries Case* were dissected by Western international lawyers at the first conference.[55] Politically, this was a waste of time. Legally, the differences between the respective positions were important, but no matter how the lawyers differed on the interpretation of the court's ruling, they and the states they represented felt bound by that ruling. The tendency to argue the legal niceties of the case often made them neglect the importance of convincing the dissatisfied of the basic validity of the court's ruling and its worthiness to be included in the draft articles on the law of the sea under negotiation.

III

From this article it may be concluded that the results achieved by the Conferences on the Law of the Sea, like those of any United Nations-sponsored international conference, were dictated by the willingness of the participating states to create essentially political agreements. States or groups of states which assume that a specialized subject matter such as international law should not be subject to the political rough-and-tumble associated with parliamentary diplomacy, but dealt with logically within the broad lines of its past development, are bound to be disappointed by results achieved in a conference.

Indeed, one conclusion that might be drawn from the study of at-

[52] Gilbert Gidel, *Le Droit international public de la mer*, Vol. III, *La mer territorial et la zone contiguë* (Paris 1934), 151.

[53] A/CONF. 13/39, 37th meeting, par. 16-20.

[54] A/CONF. 13/42, 17th meeting, par. 36.

[55] See, for example, A/CONF. 13/39, 5th meeting, par. 35; 9th meeting, par. 23; 17th meeting, par. 18; 28th meeting, par. 15.

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titudes of dissatisfied states at the law of the sea conferences is that future conferences would be useless for codifying and developing law because of the hostility of dissatisfied states toward international law, a remnant of their European and imperialist past. Their concern with sovereignty, their suspicion of legal details, their wholly political attitude—all make it unlikely that they will be willing to agree to universal norms. By characterizing international law as an institutionalization of the values of the "top dogs" of the European-centered past, the dissatisfied seemed to demonstrate that they could not conceive that states might value law for its normative quality. They could not acknowledge that states have in the past compromised in negotiating legal subjects in order to create a pattern of orderly relationships even though their interests might not be fully served by such norms, or even that order itself may be to the interest of a state.

This attitude of the dissatisfied bodes ill for the possibility of creating universality in the law in our time. If, however, this is to be an end actively sought, international conferences, or some other United Nations-sponsored device, will probably be necessary to gain consent of the dissatisfied.[56] And if conferences are to be used for this purpose, it must be recognized, and not merely ruefully as Mr. Petren of Sweden did, that "progressive development" is guided by political considerations and that the results of a conference will be an undifferentiated mixture of "progressive development" and "codification." No purpose is served by deploring a "diplomacy of the sea" and distinguishing it from a true "law of the sea."

The course of attempting to achieve universality by means of conferences presents the satisfied with knotty problems. To avoid utter failure, the satisfied must alter their outlook on international law and on negotiating it.

The burden of responsibility for bringing conferences dealing with international law to successful conclusions rests with the states most devoted to international law. This does not mean that these states should make drastic changes in the law or sacrifice vital interests merely to foster agreement for agreement's sake. What is necessary is a

[56] Alternative schemes, such as allowing the General Assembly to declare codes of customary law, or giving legislative power to an enlarged Security Council or to a special majority in the General Assembly, would not avoid those problems in negotiating that became obvious at the law of the sea conferences. Legal rules under these schemes would still have to be negotiated under parliamentary diplomacy. For these schemes see Jorge Castaneda, "The Underdeveloped Nations and the Development of International Law," *International Organization*, XV (Winter 1961), 38-48; and Arthur N. Holcombe, "The Improvement of the International Law-Making Process," *Notre Dame Lawyer*, XXXVII, Symposium (1961), 16-23.

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recognition on the part of satisfied states that an international conference is a forum in which political negotiations must not be looked upon with distaste, and a determination on their part to find common interests, and to make real attempts to talk to other participants in terms which all understand. Such changes in attitude—if forthcoming—are no guarantee of success; indeed, they may only hasten failure by more clearly demonstrating the real reasons for disagreement. But a realistic appraisal of the conference process as a political process is the only approach which will make success even remotely possible.

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THE CONCEPT OF PREPARATION

Some Questions about the Transfer of Systems of Government

By B. B. SCHAFFER

I

A RECENT commentator has suggested that the value to political science of looking at new states is that "one is forced to deal with the most basic questions of politics—the entire set of questions involved in the creation and maintenance of political societies."[1] Certainly this appears to be true time and again. One is forced to look at the largest questions to the smallest, both because they are vivid and apparent, and because they are also urgent. The basic problem of obligation—why we do things we do not want to do, and allow unpleasant things to be done to us by political leaders, or why we accept the authority of power—is for us either a matter of analysis or of sociological inquiry. Clearly it is more than that in a new state. There the question is a living one, sometimes for a large minority, sometimes for many small sections or groups. The state and the nation are not, as yet, one. Rousseau or Hobbes have come to life.

Similarly, with questions of a different order, the concepts and controversies of Western political science take on a brighter color. The debate between the Burkean theory of representation of interests and the Benthamite alternative is one example.[2] Dead debates come alive. Secondly, political forces—for example, strains on public service neutrality—are seen more starkly in a new setting. Without the sort of sociological scholarship of a Selznick, it may be difficult to detect the administrative ideologies at work in Western systems. They are seen very easily in dependent or new states because they exist in a franker or more extreme form, or because they are brought into the open by testing conditions or by debate itself. At one extreme, for example, administrative self-recruitment and the recruitment of an administration from a social elite have been undertaken more consciously and have been defended more openly for the U.K. colonial than for the

[1] Sidney Verba, reviewing Clifford Geertz, ed., *Old Societies and New States: A Quest for Modernity in Asia and Africa*, in *American Political Science Review*, LVIII (March 1964), 110. Cf. Manfred Halpern, "Toward Further Modernization of the Study of New Nations," *World Politics*, XVII (October 1964), 161.

[2] Thomas Hodgkin, *Nationalism in Colonial Africa* (London 1936), 44.

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home civil service.[3] There has been in home administration no ideology comparable, as a force, to indirect rule in African administration. Indirect rule may be termed an ideology insofar as its force derived not from conditions but from belief, and because when the ideology was not followed by action it was thought necessary to pretend that it was—"a ritual incantation," as Ralph Austen has called it.[4] It was unanalyzed; that is to say, it was an emotive image, not a necessary prescription.

Thirdly, questions which for the West have become either purely mechanical or of secondary importance—like the drawing of electoral boundaries or the choice between plurality and proportional representation—may be passionate, violent, even bloody, in dependent territories and new states. Fourthly, one seems to be able to use in new societies some of the most familiar concepts of the West to enlighten some of the darkest problems. Thus the concept of totalitarian democracy seems to be at work in Kautsky's prognostications about elites and communication in new states[5] or in the local ideology as explained by Matossian.[6]

The very excitement of the situation ought to make us suspicious. Is it satisfactory to think of political development simply as a more than usually severe testing ground for our own agenda (for example, political obligation), our debates, our conception of political forces, our presuppositions and solutions? In particular, in the practice of the politics of the transition from dependence to new statehood, is it satisfactory to see the emerging states merely as more or less proximate to Western models? In his book *The Commonwealth*, Patrick Gordon Walker talks of Britain's being faced with her mirror image, and surrendering gracefully—an attractive notion: young bulls and old, the

[3] Philip Mason, *The Men Who Ruled India* (London 1953, 1954); Sir Ralph Furse, *Aucuparius* (London 1962); Robert Heussler, *Yesterday's Rulers* (Syracuse 1963).

[4] *The Official Mind of Indirect Rule: Tanganyika 1924-1939*, Institute of Commonwealth Studies (London 1964).

[5] J. H. Kautsky, ed., *Political Change in Underdeveloped Countries* (New York 1962), 113: "In this fashion, the industrialization sponsored by the totalitarianism of the intellectuals may yet, in the future, convert that system into one in which most of the groups of the new society have access to representation in the governmental decision-making process. . . ."

[6] Mary Matossian, "Ideologies of Delayed Industrialization," in Kautsky, 264: "Democracy must be introduced into a country in two stages. In the first stage, a single 'all-people's' party of the most 'enlightened' and 'progressive' elements of a nation takes over the government and acts as a faculty for educating the masses in democratic ways. At some time in the indefinite future, the masses will be ready for direct self-government and the 'all-people's' party will 'wither away' "—a nice combination of Marxism and attitudes borrowed from the colonial administration.

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young learning their lessons well enough to fault their elders, and so forth.

In fact, however, one sees immediately that the very existence of emerging states changes the received notions of many parts of the discipline.[7] Furthermore, to apply any of our working concepts to the situation of emerging states can be dangerously misleading. Thus it is easy to talk of a Balkanization of Africa. Balkanization described Central and Eastern Europe after Versailles when a large empire was broken up, and when the only criterion for political boundaries was the self-determination of ethnic groups (which was necessary and sufficient too, since states appeared that were not viable in any other way). Although it is clearly tempting to use this concept to explain Africa now, it is wrong to do so. Not only are the new states not nation-states at all, but in fact they have been created in direct opposition to ethnic lines: the boundaries in West Africa run at right angles to the coast; the ethnic lines parallel.[8] The use here of the familiar Western concept, because of the apparent similarity of a part of the evidence, would blind us to the vital difference of another part.

There is a similar danger in using structural concepts like trade unions. In Africa, the term tends to refer to a centralized unit, built from the top down—an industrial wing of a party, not what we would have in mind at all.[9] Again, a technical ideological term like "pluralism" in the evidence of the new states may refer to at least four different problems: multiracialism; the overlapping of state boundaries by ethnic loyalties and ties; the conflict between the rival, centripetal, and comprehensive demands of various types of small groups (extended family, clan, tribe, people) and those of the new central state itself; and the relations, generally characterized by intolerance, between majority and minority. In Western usage, pluralism is either a value (for example, as for the early Laski, Figgis, and others) or a description of ways in which loyalties can be shared between the state and other associations.

[7] See Thomas Hovet, Jr., *Africa and the United Nations* (London 1963), and Conor Cruise O'Brien, "Africa and the United Nations," *Voice of Africa*, III (12 December 1963), 13-16, for the impact on theories of international relations.

[8] Brian Crozier, *The Morning After: A Study of Independence* (London 1963).

[9] Elliot J. Berg, "French West Africa," in W. Galenson, ed., *Labor and Economic Development* (New York 1959); D. I. Davies, "The Politics of the T.U.C.'s Colonial Policy," *Political Quarterly*, XXXV (January-March 1964), 23-24; cf. also the comments on the inappropriateness of a Western concept like elites in P. Morton-Williams, "A Discussion of the Theory of Elites in a West African (Yoruba) Context," West African Institute of Social and Economic Research, *Fourth Annual Conference, Proceedings* (Ibadan 1956), 25-32.

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Finally, in analyzing the practice of government in the new states, it is difficult but important to differentiate continuing problems on the one hand from rapid changes on the other. Within a year of Uganda's independence the balance of forces around three vital political issues (the position of Buganda, central-local relations, and the East African Federation) was altered altogether. It will not assist the detection of distinctions between the new states and the West to stress the continuities alone, or to ignore them either.

It is clearly not adequate to look at political development and government in new states exclusively in the concepts of Western political science, despite the apparently dramatic impact which the problems of such government have on the concepts themselves. Moreover, if it is inadequate to use these concepts to describe development, then how much more dangerous it is to suppose that development must actually be the more or less satisfactory working out of transferred Western models. To do so would be to adopt an extreme form of the "gap" approach criticized by Ann Ruth Willner.[10]

Moving from the general to a more particular question, we can then look at the whole idea of preparation. Essentially, this is the notion of laying the foundations, before independence, for the working of a Western model (Westminster or whatever), which will then be transferred. The preparatory idea is an extreme instance of the assumption of the possibility and desirability of transferring Western political concepts—that is, of the political gap approach—not merely in analysis but actually in policy itself. How far does preparation theory explain the past and how far is it a sensible criterion for contemporary policy where, as for example in Papua-New Guinea, some sort of task along these lines still has to be done? This article is an attempt to raise some of the questions which have to be answered in assessing the idea of a policy of preparation—the notion that preparation in this sense explains what has happened and what ought to happen, what policy was like and what it ought to be. The implications of a negative result in assessing both the colonial record and contemporary policy would be considerable indeed.

II

The standard United Kingdom picture of the preparatory process has been established with the very highest degree of scholarship and

[10] "The Underdeveloped Study of Political Development," *World Politics*, XVI (April 1964), 480-82.

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acumen by Wight and others.[11] It is customary in imperial historiography to distinguish between a first and a second colonial empire, though the number that can be distinguished in fact (whether from the point of view of acquisition, of chronology, or of policy) is as many as you like. It is clear that in the nineteenth century there was a definite conception of an imperialism for India, but a panoply of uncertainties about all the rest, though it may also be said that there resided in the Colonial Office a certain deposit of administrative notions—weights and measures ideas, as we might say—which it felt should be commonly applied. For our purposes it is important to distinguish two strands: those areas to which the Durham Report was felt to be applicable and, secondly, those to which it was not.[12]

It is true that the Durham Report did not conceive of an immediate self-government for Canada, but it did propound a system of political dualism, as a division of responsibility between the imperial and the domestic governments. Durham was quite clear about the essential equality of colonial and British-born and residing subjects. The "constitutional assimilation" was accordingly to be definite and not without speed, and it was to proceed immediately beyond representative to responsible government. The executive council was to be responsible to the legislative council. "I admit that the system which I propose would, in fact, place the internal government of the colony in the hands of the colonials themselves; and that we should thus leave them the execution of the laws, of which we have long entrusted the making solely to them."[13] In the sort of colonial situation which Durham envisaged and where his ideas would apply, the case for an immediate self-government was already made by the situation itself. That was the essential point. Further, if there was a risk, it could in no wise be used as an argument against that immediate necessity for responsibility. There were several reasons for this, and the binding nature of liberty

[11] Martin Wight, *British Colonial Constitutions* (Oxford 1952); Dennis Austin, *West Africa and the Commonwealth* (London 1957); A. J. Hanna, *European Rule in Africa* (London 1961); W. J. M. Mackenzie and K. E. Robinson, eds., *Five Elections in Africa* (Oxford 1960).

[12] Representative government was conferred by the British government on Upper and Lower Canada in 1791. Imperial control was, however, firmly maintained. The result was fifty years of strife between the executive and the legislature. The rebellion of 1837 led to the sending out of Lord Durham as Governor-General, the radical Whig magnate. His report of 1839 is held to be the source of British responsible government overseas. A convenient abridged edition with notes, etc., is Reginald Coupland, *The Durham Report* (Oxford 1945).

[13] W. Houston, ed., *Constitutional Documents of Canada* (Toronto 1891), 296.

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was one.[14] "If the colonists make bad laws and select improper persons to conduct their affairs, they will generally be the only, always the greatest sufferers, and like the people of other countries, they must bear the ills which they bring upon themselves until they choose to apply the remedy."[15]

Quite the other case was that where Durham did not apply, and where quite contrary ideas of trusteeship and preparation did. If Canada and Durham are basic for the one situation, then perhaps either Burke and India, or Ceylon and Donoughmore or Soulbury, might be basic for the other.[16] These were the colonies where the people were evidently not equal to the British. Accordingly, while existing state machinery would be used as much as possible (whereas in Canada it had from the first to be created), at the very same time neither the people nor the states could be very well trusted as ready for independence. Considerable delay, a fulfillment of conditions, and some relatively subtle and indirect processes of movement would be required, just as inherently the opposite were required in the Canadian situation or the Durham concept. The idea of trusteeship did imply that, eventually, there would be a change. The questions to be answered were "how?" and "when?" The process of preparation, the instrument of the vision of trusteeship, was meant to deal with the achievement of the change, the answers to these questions. It was the other side of the trusteeship coin.

It has been suggested that four essential stages can be distinguished in the whole preparation process.[17] The first consists of a division of legislative and executive councils and a nomination of unofficial members to the legislative council, leading to election of some unofficial members, as in Ceylon in 1910. In the second or "representative" stage, the unofficial members are a majority, as in Ceylon in the nineteen-twenties. This creates problems in the relation between the legislative and the executive councils. The third semiresponsible stage ensues when the majority of the executive council comes from or is related to the majority of the legislative council, as in Ceylon in 1931 as a result of the Donoughmore Report or in 1944 as a result of the Soulbury Report. In the fourth stage, nominated officials disappear

[14] Coupland, *Durham Report.* [15] Houston, 297.

[16] Austin; Ceylon, *Report of the Special Commission on the Constitution* (Chairman: Lord Donoughmore), Cmd. 3131 (London 1928); Ceylon, *Report of the Commission on Constitutional Reform* (Chairman: Lord Soulbury), Cmd. 6677 (London 1945).

[17] Austin; Wight.

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from the legislative council, as in Ceylon in 1947.[18] This may be self-government, full self-government, independence; but perhaps a fifth stage should be distinguished to demarcate the actual transfer of power from the preparatory process. Furthermore, many complications, especially in types of ministerialization, will vary the pattern.[19]

Something like that is the preparatory pattern. Austin writes, "The guiding principle behind the different stages in this advance—from an elementary form of Crown colony administration to a complete system of cabinet-responsible government—lies in the changing balance of power between British officials and representatives of the local community. By these means a colony is led to independence by a gradual process of emancipation through the careful training of the 'unofficials' in the techniques of self-government."[20] Austin adds the pregnant words, "This at least is the theory."[21] Such a theory of political development in the form of a preparatory process evidently has three essential and peculiar points, each concerned with political and administrative features rather than with modernizing, social, or cultural ones. The first point is that there are four stages of transition based on a transfer by training. The second point is that the pattern is primarily concerned with the legislative and executive councils. Thirdly, it assumes that progress is toward essentially one form of self-government: a slow but sure approximation of the Western parliamentary system and the Westminster form in absolute particular.[22]

Such was not the Durham idea. At some such stage as the third, when the legislature begins to acquire executive control, the pattern looks like the Durham situation. However, the beliefs of the colonial power itself establish a vital difference.[23] The theory of preparation

[18] See also *Report of the Commission of Enquiry into Disturbances in the Gold Coast, 1948* (Chairman: A. Watson), Colonial No. 231 (London 1948); *Report to the Governor by the Committee on Constitutional Reform, 1949* (Chairman: J. H. Coussey), Colonial No. 248 (London 1949).

[19] S. A. de Smith, *The New Commonwealth and Its Constitutions* (London 1964); see also Wight.

[20] "Institutional History of the Gold Coast-Ghana," in *What Are the Problems of Parliamentary Government in West Africa?*, Hansard Society (London 1958), 7.

[21] See Wight; see also the Perham Series on Colonial Legislatures by Joan Wheare, Wight, and others.

[22] de Smith, "Westminster's Export Models: The Legal Framework of Responsible Government," *Journal of Commonwealth Political Studies*, 1 (November 1961), 2; H. V. Wiseman, *The Cabinet and the Commonwealth* (London 1958), 15; Uganda, *Report of the Constitutional Committee, 1959* (Chairman: J. V. Wild), (Entebbe 1959), 33; W. Ivor Jennings, *Democracy in Africa* (London 1963), chap. 3, esp. p. 33, for a short statement on the Westminster model.

[23] *Origins and Purpose*, Central Office of Information for the Commonwealth Relations Office and the Colonial Office (London 1949), 146: "Trusteeship has given place

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implies certain specific presuppositions, each with severe difficulties.[24] The first is that while trusteeship might lead to independence, it is also supposed to do so very gradually indeed. The very nature of the process carries the possibility of a cut-off at any stage. It also carries the notion of tests or conditions for movement from each stage to the next. This means that trusteeship is interpreted as a preparation for efficiency or viability as much as for independence, and that the two ends can be contradictory. Hence efficiency may come to be seen, as Mboya pointed out later, as the last refuge of the imperialist.

Secondly, while in practice the only stage that mattered to the anticolonialist was the actual transfer of power, it was at that stage that institutions would and could be modelled on Westminster, if the people so chose (the idea of autochthony as Wheare, Robinson, and others discuss it).[25] In the ideology of preparation there is a fundamental distinction between the preparatory stages, which are concerned with the transfer of a system, and the process of transfer of power. Indeed this transfer is not an essential part of the preparatory process at all; it is a different sort of thing altogether. Preparation is concerned with the creation and translation of institutions (originally on certain conditions of viability), and transfer of power is concerned with independence. Preparation is essentially hierarchical, while transfer is a bargaining process. There is, however, always an attempt to graft the one category onto the other. For example, in the third and, especially, in the fourth stages, there could be a gradual reduction of the governor's and the imperial government's reserve powers. Thus transfer could be treated as simply an amendment of the fourth stage; of course, it is actually something else. In the end the nationalist and the colonialist might come to agree about the importance of the transfer of the Westminster model, but they would do so for quite different reasons: one as a culmination of training; the other as a symbol

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to Junior Partnership. But much remains to be done before the peoples of the colonies, now in different stages of political and economic development, are ready to take their places as citizens of mature, self-governing nations and our objective—copartnership between equals—is attained. For many years to come the peoples of the colonies must rely, to a greater or lesser degree, on outside help. It is our duty to see that this help is forthcoming."

[24] Mason; Furse; Jack Simmons, ed., *From Empire to Commonwealth* (London 1949).

[25] K. C. Wheare, *Constitutional Structure of the Commonwealth* (Oxford 1960), chap. 4; K. E. Robinson, "Constitutional Autochthony in Ghana," *Journal of Commonwealth Political Studies*, 1 (November 1961), 41; Sir Kenneth Roberts-Wray, "The Authority of the United Kingdom in Dependent Territories," in J. M. D. Anderson, ed., *Changing Law in Developing Countries* (London 1963), 60-62; de Smith, "Westminster's Export Models," 55ff.

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of liberation. If the theory of preparation differs from Durham it is also different from Lugard's "Dual Mandate," and hence from the ideas of Goldie and, probably, of Rhodes.[26] The theory is altogether different from what was present in the white-settler ideas of Lord Delamere.[27] For Delamere, the priority of economic development and the superiority and leadership of the white settlers were axiomatic; the long-term aim was concerned not with the movement of the indigenous people from one institutional stage to another, but with the creation of a European community which itself would deserve the Durham treatment. The axioms of the preparatory theory are quite different. Although many of those in charge never accepted them, nevertheless these axioms became very influential indeed in local opinion.

We can then distinguish between the idea of preparation and other notions of the colonial role. The idea of a preparatory process certainly (to say the least) has not had the field to itself. There have been many alternatives sought or found, and deep opposition. No one can pretend that preparation explains the actual process of acquisition, say, in Matabeleland and Mashonaland. However, by 1948, the Colonial Office would have wanted to claim that the preparatory process was not a method discerned only after the event but was a process always intended and foreseen.[28] This view of preparation implies a peculiarly Whiggish notion: a belief in a steady movement to better and better constitutional forms with the best form possible (a constitutional form, not necessarily independence) to be achieved at the end. The view is Marxian, too, in its socio-economic presuppositions that economic development comes before political development and as a condition for it. It is also very presumptuous in three ways. One is the ultimate assumption that the British form is the best, or, at any rate, that the British know best, as Macaulay had once believed. The second form of presumption is the conviction that the tests to be set could be determined by outside forces. Thirdly, in this view, the tests are presumed to be essential, however they extend the preparatory process—hence the reaction, in due course, of the United Nations General Assembly to any tests at all.

[26] Lord Lugard, *The Dual Mandate in British Tropical Africa* (London 1922), 26; cf. Mason, *The Birth of a Dilemma* (London 1958), 125. Sir George Goldie, with Sir William Mackinnon, was responsible for reviving the old system of Chartered Companies as a device for colonial development. His Royal Niger Company was chartered in July 1886.

[27] Elspeth Huxley, *White Man's Country: Lord Delamere and the Making of Kenya*, 2 vols. (London 1935; new ed. 1953).

[28] Sir Charles Jeffries, *The Colonial Office* (London 1956), 38.

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III

There are then, it would seem, two distinct ways in which the preparatory idea can be discussed. The first is essentially historical: Is the Whiggery true? Is it true, that is, that the whole plan of preparation was in mind from the beginning of each piece of Crown colony administration?

It is fairly clear that it was not, say, until 1948 and the Watson Report on the Gold Coast that the notion of using what in fact had happened in Ceylon as a model for Crown colonies generally emerged as a fully accepted official doctrine. The idea of preparation for the Westminster model itself—not merely of training, and a change of legislative and executive councils—was essentially a postwar idea.[29] That is the first point to emphasize about the record itself. The notion of preparation was essentially concerned with the creation of responsible institutions of a particular sort, although other opinion would have taken account of economic conditions, a desire for independence, nationhood, educational growth at postprimary levels, and so forth. Whatever the reasons for its emerging in this way, the idea was in fact convenient for three reasons. One was that it was a justification of the whole record, and of the British presence in postwar situations. The second was that it was a source of negotiation and of tactics of delay when delay may well, indeed, have been justifiable. (You would not seem to be delaying but only training and educating.) The third was that the theory in this form invited a concentration on just those purely institutional features which, it seemed, could most easily be debated, handled, and changed.

This version of preparation was a singularly brilliant sleight of hand. It is expressed in the 1948 claim that ". . . the central purpose of British colonial policy is simple. It is to guide the colonial territories to responsible government within the Commonwealth, in conditions that ensure to the people concerned both a fair standard of living and freedom from oppression from any quarter."[30] Hence the tide of documents like *Origins and Purpose*, which as late as 1949 was both very cautious in terms, very conditional, and very limited in its view of preparation and of the move toward the end of trusteeship.[31] Hence also the enunciation of sets of conditions in case after case, especially in relation to the British West Indies Federation. However, in fact,

[29] Robinson, "Colonial Issues and Policies with Special Reference to Tropical Africa," *The Annals*, vol. 298 (March 1955), 84.
[30] Jeffries, quoting Cmd. 7433 (1948).
[31] *Origins and Purpose*, 22n.

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these years were, inevitably, too late for preparation, save as a purely political, almost desperate effort to provide an ideology of delay. The times were too late, that is, for the provision of necessary nonpolitical conditions such as a higher secular educational structure and the garnering of its fruits. The first legislative council with an unofficial majority in the Gold Coast came in 1946; full internal self-government in 1954; independence in 1957. That was relatively much slower than was to be the case of the next batch in the later nineteen-fifties and early nineteen-sixties. Then the so-called preparatory steps trod hard on each other's heels. In Nyasaland steps were jumped. In Kenya it became obvious that the steps were mere negotiating points and did not represent either standards of education or conditions of viability. They did give a lot of work to the Colonial Office's legal department. The steps also had one singular disadvantage: they were so well known, in the end, on the other side of the table. So preparation became doctrine when it was just too late. Perhaps we should always be suspicious of any official statement that the central purpose of any policy is simple and that it has always been what it is then claimed to be. At any rate, if the theory emerged after the event in this way, it did so when it was too late to have substantial truth.

It might be argued that the whole theory of preparation was always a somewhat delayed ploy. Studies of particular colonial records show that it is very difficult to trace any continual preparatory process at work, or any signs of a preparatory policy, until after the war. The colonial polity was essentially bureaucratic. Colonial government was dominated by the secretariat.[32] Its aim was efficiency. The interesting prewar processes led to such things as the growth of technical departments, not to the growth of the roots of independence. Often, as in Uganda, the executive council until after the war was purely official in membership (although Kenya in 1938 and Nigeria in 1943 had unofficial members). More important, the legislative council was doubly subordinate both to the executive council and to the Colonial Office—a peculiar training for parliamentary government. It was not a matter of the legislative council's being controlled by the executive council but of its being simply the executive council plus a few unofficial members, meeting rarely (in Uganda in the nineteen-thirties, four to ten times a year), without parties, politicians, or an opposition, and certainly without either an alternative government or the possibility of understanding such a thing—again a peculiar training for parliamentary government.

[32] Sir A. Bertram, *The Colonial Civil Service* (London 1930), 34.

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This pattern was generally true for the legislative council form. "A council such as this differs from the parliament of a self-governing dominion in the essential particular that the members comprising it are not divided into two parties—a government and an opposition," as Sir Hugh Clifford said in Nigeria.[33] But that was not the only problem even when war instigated changes. The 1940 Colonial Development and Welfare Act did not lessen the emphasis on administration and efficiency as against the legislative council and self-government. The "member system"—that is, the system of bringing unofficial members into the executive council—introduced in Northern Rhodesia, Kenya, and Tanganyika, was rooted in responsibility to the governor, not to the legislative council. In Kenya and Tanganyika, when formerly unofficial members of the legislative council were appointed they had to become civil servants. The member system simply was not ministerial at all, however late in preparation the device appears. The Africans were scarcely participating anyway.[34] Furthermore, even in the policy of Creech Jones, the Labour Colonial Minister, the member system was to lead to ministerialization only very slowly: first, executive council members were to be responsible for branches of central government; then indigenous people outside the civil service were to be members; then members were to be renamed ministers; at last ministers were to be responsible to the legislative council.

Nor was this the whole of the limitation. Not everyone wanted to see a parliamentary development of the legislative council: Governor Hall, in Uganda, did not, nor did, perhaps, Lord Hailey.[35] As late as 1950, in Uganda, when only eight of thirty-two members were African, and only five were elected and those indirectly, Governor Hall said, "All I ask of all African members of the Council is that they will take the pains to acquaint themselves with the facts and will make it their business to pass on the facts in simple terms to as many as possible of their fellow Africans outside the Council chamber."[36] This was in 1950. It was much what Sir Hugh Clifford had said in Nigeria in 1923; and it was clear that the function of the legislative council was not at all to represent the people to the government, still less to make the government responsible to the people, but instead to act as a spokesman for the administration to the people. Not surprisingly, when

[33] Joan Wheare, *The Nigerian Legislative Council* (London 1950), 42.
[34] Austin, "Institutional History," esp. 9-10.
[35] Lord Hailey, *Native Administration and Political Development in British Tropical Africa* (London 1942).
[36] *Legislative Council Proceedings*, 6 December 1950, 1st meeting, 30th session, p. 7. Cf. Sir Hugh Clifford in 1923 in Joan Wheare, *Nigerian Council*.

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ministers came, the concept of official and unofficial ministers was used.[37] The ministers were responsible to the government and the administration, not to the legislative council. In Uganda, changes in policy were made public before they were announced—much less debated—in the legislative council.

At the very time the preparatory process was, so late, at last consciously begun, there also began an emphasis on local government. There was no clarity about whether this was meant as a training for parliamentary self-government, and for the Westminster model in particular, or as an alternative to it.[38] Creech Jones seemed to mean local government development for economic development, for electoral colleges, and for political education. These were three very different and to some extent contradictory purposes.[39] Certainly there was a new concern with democracy, or, as it was later put, with "representative forms."[40] Hailey, however, spoke of a ". . . federation which would in time take over the legislative and executive functions of the present government. The value which the scheme possesses as a method of attaining self-government otherwise than through the development of parliamentary institutions of the normal type is an aspect which is clearly of great importance." The whole structure of councils was thus set up, but the administration was strongly opposed to direct elections, precisely because they wanted a check upon "the would-be professional politician."[41] Even if in the later nineteen-fifties there was a more specific emphasis on local government for political education and recruitment, it is very doubtful, because of its failure in the key urban areas and because of the rise of new parties and leaders,

[37] *Uganda Protectorate: Buganda*, Cmd. 9320 (London 1954).

[38] The postwar emphasis on local government as the key to political development began with Creech Jones' February despatch: *Despatch to Governors of African Territories, 25 February 1947*. Was this an alternative to Westminster or a step forward from indirect rule? See R. E. Robinson, "Why 'Indirect Rule' has been replaced by 'Local Government' in the nomenclature of British Native Administration," *Journal of African Administration*, II (July 1950), 12-15.

[39] Reports on African local government produced by the African Studies Branch of the Colonial Office, *Journal of African Administration*, the Advisory Panel on Local Government in Africa, and special committees come very fast between 1949 and 1953, and cover especially the Gold Coast, Uganda, Tanganyika, Sierra Leone, Nigeria, East Africa, and East Nigeria.

[40] David Apter, "Some Problems of Local Government in Uganda," *Journal of African Administration*, XI (January 1959), 236 n. For early statements see Donald C. Cameron, *My Tanganyika Service and Some Nigeria* (London 1939), esp. 114-16; Margery Perham, *Summer School on Colonial Administration* (Oxford 1938), 105-6.

[41] C. J. Bryant, *Some Problems of Public Administration in Uganda*, unpublished Ph.D. thesis, University of London (July 1963), 202.

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how far this worked at all.[42] Significantly, it worked best when it did not follow British models, and was freed of the weakness of local town clerks, relying on district commissioners and acting as the agents for central departments.

Not surprisingly, Kaunda criticized the whole emphasis on local government in this era as a colonialist diversion of political attention away from central government.[43] There were difficulties about whether or not the local government policy was meant as an alternative to Westminster (and clearly not all those responsible saw it as an alternative) and even about whether the policy was as tied to the British model as the whole preparatory process was supposed to make it. The Wallis Report said, for example, that past errors had been committed.[44] Local government had been led to think of itself as a source of future native states; back, then, to the essential preparatory process. According to the report, there was no point in the question whether or not "British principles were suitable for export to Africa." Again, "There is no space here to argue the merits of the British, French, American, Irish, or other kinds of local government. I must content myself with the practical argument that no principles other than British principles can be imported into Uganda by an administration composed of British officials." Possibly; but could British officials carry out these principles, did they want to, did they know British local government? In Uganda, at any rate, Buganda remained a peculiar factor. Domination by the district commissioner meant that the local government was very little like the British system, and the district commissioners knew little of that system anyway. As one district commissioner said, "I, for one, must admit that until I had spoken to him [Wallis], I was not at all sure what constituted the essential difference between the two systems [the British and the European]."[45]

IV

If preparation occurred, then, it did so very late in the day, not in wartime, nor even immediately postwar. Some of the apparently pre-

[42] Lucy P. Mair, "Representative Local Government as a Problem of Social Change," *Journal of African Administration*, x (January 1958), 1-24; Mackenzie and Robinson, *passim*.

[43] Kenneth Kaunda, *Zambia Shall Be Free* (London 1962), 20-21.

[44] C. A. G. Wallis, Colonial Office, African Studies Branch, *Report of an Inquiry into African Local Government in the Protectorate of Uganda* (Entebbe 1953), 15. On Buganda, see D. A. Low and R. C. Pratt, *Buganda and British Overrule* (London 1960).

[45] Bryant, 210.

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paratory institutions, like the legislative council, did not seem to be effective. Those officials responsible were often opposed either to the preparatory process or to the institutions being used, and sought alternatives; the particular pieces of the United Kingdom model used—like local government—were fraught with difficulties and were not always either fully understood or fully British. Essential features of the Westminster model were lacking. A knowledge of the model was often lacking, too. The operative values were bureaucratic.

This was utterly true of all other parts of colonial government, at any rate until the end of the war. One might look at such a major innovation as the unification of the colonial service.[46] Even apart from Furse's deliberate hostility to examinations rather than interviews for recruitment, and his deliberate preference for those who were "chiefs in their own country," unification meant precisely a step away from local recruitment. The old empire had used local recruitment much more. Reforms meant a concentration on British university qualifications, which made indigenous recruitment much more difficult. In forestry, British degrees plus a qualification from the Oxford Imperial Forestry School were required; in veterinary science, the qualification of the Royal College of Veterinary Science, and so forth. "Standards" were all-important; standards meant British, not even American or Indian, qualifications; localization could proceed only via scholarships to the United Kingdom, and scholarships were limited by the educational system which relied so heavily on primary mission schools. Caution in favor of standards was all-important as late as 1955. "We made it clear from the beginning that we had no intention of pressing for the appointment of Africans to the higher posts merely because they were Africans, but we wanted to be satisfied, first, that if fully qualified Africans were available there was a place for them in the higher ranks of the civil service."[47] This attitude was buttressed by the domination of the administrator over the rest of the colonial services, and by recruitment from Oxford and Cambridge over all others, and by the maintenance of that recruitment in the hard days of the nineteen-thirties when the other services were actually being retrenched.[48]

A second example of the gap between preparatory theory and prac-

[46] Furse, 233-44; Jeffries, 63.

[47] *Final Report of the Standing Committee on the Recruitment, Training and Promotion of Africans for Admission to the Higher Posts in the Civil Service* (Entebbe 1955), 4.

[48] Harold J. Laski, "The Colonial Civil Service," *Political Quarterly*, x (October-December 1958), 543.

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tice was indirect rule. In all its ramifications, from administrative convenience to ideological pretense, indirect rule was not intended to be a preparation for independence on Westminster lines. All nationalists, including relatively evolved ones like Chief Awolowo, were hostile to it.[49] And there was never any ground for supposing that indirect rule was itself a more appropriate piece of machinery than any other. It is true, as Perham says, that "the expedient by which a conquering people makes use of the institutions of the conquered is as old as history."[50] In its application in the particular sense defined by L. P. Mair,[51] it was full of problems and pretense; of difficulties in definition and recognition; of limits of authority; of movement from an administrative device to a political doctrine to an almost religious dogma; of acephalous societies and useless chiefs; of the conversion of traditional leadership to merely appointed chiefs; of native treasuries and native administration funds. By its application, two problems were put. The first was the role conflict discussed by Lloyd Fallers in his classic work *Bantu Bureaucracy*,[52] and by A. Southall, who wrote, "It is still, after nearly forty years of European rule, not possible to be true to Alur and European values at one and the same time. Administrators are compelled on the logic of the situation to view the chief's loyalty to them as right, and to consider the disloyalty to his people and their values, in which support of the British government involves him, as a stand for enlightenment. But they cannot force his subjects to view it so. There will always be moments of critical decision in which what is officially required of the chief will be seen as treachery by many of his subjects."[53] The second problem was discussed both by Mair and by Hailey. Indirect rule naturally meant the creation of chiefs where there was no tradition. Chiefs were then petty officials, with an extended and, above all, an unencumbered (since nontraditional) authoritarianism.

What one sees at work in both the unification of the public service and the doctrine of indirect rule is what one saw in relation to the legislative council: the predominance of bureaucratic values over other considerations. These bureaucratic values were themselves ex-

[49] Obafemi Awolowo, *The Path to Nigerian Freedom* (London 1947).

[50] Perham, "A Restatement of Indirect Rule," *Africa*, VII (July 1934), 21.

[51] *Native Policies in Africa* (London 1936), 12-13: "The element in the indirect rule policy from which it takes its name is the maintenance in their position of the authorities recognised by the native population, as the basis of development of native administration fitted to perform the functions of a modern government."

[52] (Cambridge 1936).

[53] *Alur Society* (London 1956), 307. See also A. I. Richards, ed., *East African Chiefs* (London 1960).

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cessively narrow. Thus the colonial administration opposed the Creech Jones policy of ministerialization, bureaucratic as that itself was, because it would upset the existing system of secretariat and of indirect rule.[54] The narrowness of this peculiar bureaucratic philosophy was effective and dangerous; preparation was probably ineffective and not nearly as dangerous as people like Hall supposed. The danger lay in the creation of inappropriate values. As Sir Christopher Cox pointed out, "Projects for developing trade schools and training artisans have not won general support if they are suspected of being the policy of the ruling power more concerned with the supply of hewers of wood and drawers of water than with programmes of advancement."[55]

Oddly enough, the actual importance of the bureaucracy for preparation was not a part of the preparatory theory. Yet Hailey himself commented that localization was more significant to the indigenous people than advance in the legislative council itself.[56] This was a serious comment on the theory of preparation as a whole, and reflected two weaknesses. One related to the gap between the theory (concerned as it was with the legislative and executive councils) and the actual colonial experience. It was not a part of the theory at all to acknowledge that indigenous people (and therefore the nationalist movement) would know more, from their experience of life, of the colonial administrator than of the legislative or the executive council. Secondly, the Westminster model fundamentally requires a public service prepared to operate a ministerial system. A transfer would require an indigenous public service of this type. Yet localization at an early stage and preparation for a ministerial public service were not made an inherent part of the preparatory process at all. The actual colonial government (so different from Westminster anyway) delayed localization very much indeed. Further, the power of the specific bureaucracy prevented the possibility of any discussion of alternatives to the one administrative system.[57] This could, of course, be treated as fidelity to a preparation for Westminster; but the colonial administrative system, whatever its virtues, was not at all like Westminster's. Whether localization and a ministerial public service were actually possible was, of course, another matter.

[54] Wiseman, 79.

[55] "The Impact of British Education on the Indigenous Peoples of Overseas Territories," *Colonial Review* (December 1956), 232.

[56] *An African Survey* (London 1956), 359.

[57] "Administrative and Departmental Staff—Coordination of Work," *Journal of African Administration*, VII (April 1955), 75.

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It is certainly one aspect of the limitations of the theory of preparation that not only did the actual process of preparation begin very late indeed, but that also it was all along rivalled and hindered by other values, which were predominantly bureaucratic. That was perhaps inevitable in a colonial situation. The colonial situation frequently looks more like a special sort of bureaucratic haven than an education for democracy, and Westminster democracy at that. The limitation of the legislative council as a parliamentary form is an example. To some extent the limitation was benevolent, as in the search for indigenous authority, or for public service unification. To some extent it was narrow, even dangerous, as with the adoption of a particular ideology of the superiority of a particular sort of recruitment.

The triumph of the bureaucratic position is seen very fully in, say, the Ceylon Civil Service before independence.[58] A description of such a service would be rather like an elaboration of a high-prestige bureaucracy of the Weber type or, as Mason said, of Plato's itself. That was certainly so in its training, pay, and position, its domination of central government (in departments like the Colonial Secretary's or the Colonial Treasurer's), and in provincial administration. It was a superbly rewarded and regarded service, especially after the Stanley reform of 1844. There was a superiority of the executive over legislative or judicial forms of government. There was a domination of the legislative and judicial institutions by administrators on the legislative council, and also by district judges and magistrates until the nineteen-thirties. All executive and administrative forms were dominated by the one type: the Ceylon Civil Service. Meanwhile, actual minutes, which, for example, forbade to expatriate civil servants the ownership of property, and equally real social norms dominated the service itself. The service was heavily committed not merely to its norms and its status but to its own goals also, even to the extent of opposing (effectively) governor after governor. The esprit had nothing to do with a Westminster preparation; it had to do with the rule of law and a sort of economic development. The commitment has been explained more crudely in African district administration, "Ask different officials, 'What is administration?' and you will get divergent answers. . . .

[58] W. Ivor Jennings and H. W. Tambiah, *Development of the Laws and Constitution of Ceylon* (London 1952); Lennox Mills, *Ceylon Under British Rule* (London 1933); Leonard Woolf, *Diaries in Ceylon 1908-11* (London 1963), esp. the introduction by Saparamadu and Mervyn de Silva.

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The general idea will be that it is to hear cases and get revenue for the government."[59]

Such a clear past and such firm norms had their advantages and their disadvantages. The structure was not conducive to political education. "This training also did not provide for any sympathy with local aspirations, particularly political aspirations. The civil servant was only trained in 'good government' as the service knew it and training the ruled in self-government was unnecessary."[60] The system was very slow. It could conceivably adapt to the great changes only if they were slow also, as they were in Ceylon but not in Africa.[61] It created a virtuous but not a brilliant service.[62] It had little to do with developing the political responsibility of the Westminster system. We may say that transfer was too rapid in Africa for the possibilities either of indirect rule as an alternative or of the translation of the bureaucracy; it was too slow in both Ceylon and India either for the nationalist movement or for the hardening arteries of the civil service. Though very splendid indeed in many other ways, the record was not convincing in either case as preparation.

V

The theory of preparation propounds that the new states within the Commonwealth are examples of a deliberate process of preparation, by training and institutional change, for a very special form—that is, for Westminster. It has implications about gradualism and conditions. The theory is interesting, too, in relation to the distinction between the transfer of institutions and the transfer of power: the assumption by one side that the first process could assimilate the second; the assumption by the other that the second process required the first as a necessary, if passing, symbol. Historically, the theory seems to encounter at least two grave difficulties. One is that preparation actually has looked more like a tactic of negotiation than a permanent policy. The second difficulty is that in practice the dominant operative values were not preparatory but bureaucratic in a quite particular sense. Perhaps this was inevitable in colonial government. It had a good deal to do with what the legislative council was like, with the nature of the colonial civil service created by Furse and others, with the doctrine of indirect rule, and so forth. Thus preparation was in a double

[59] C. H. Stigand, *Administration in Tropical Africa up to 1914* (London 1914), 60; Woolf, xxii.

[60] *Ibid.*, xix. [61] *Ibid.*, xxii.

[62] *Ibid.*; N. Mansergh, *The Commonwealth and the Nations* (London 1948).

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sense too late—and was both too rapid and too delayed, in the different sectors of the colonial empire.

Other values had generally been preferred by colonial government: first, law and revenue, then development and efficiency, and so on to particular measures like public service unification. There is rich evidence of hostility to the domestic model and ignorance of it by those in charge. There is also evidence in authoritative statements of a search for alternatives, especially in relation to the very un-Westminster problem of communal representation. The search was expressed early in the Morley reforms or the Montagu-Chelmsford Report,[63] later in the Simon Report,[64] or even, as here, by Donoughmore itself: "It must be our aim not slavishly to follow the forms and practices of the British model, which was not designed to meet conditions similar to those obtaining in Ceylon, but to devise a scheme in consonance with local circumstance, a scheme which will be concerned not to reflect an alien philosophy but to give free play to the peculiar genius of the Ceylonese themselves." This attitude was also expressed by expert voices like those of Lugard[65] or Hailey.[66] Sometimes this was ignorance, sometimes opposition, sometimes actually an awareness of the complex conditions of Westminster and of local circumstances, sometimes a preference for alternatives in organization, public service, local government, and so forth.

Insofar as there was preparation for Westminster it came very late and was enforced. On the one hand (in Wallis's terms), no alternative seemed to be available. On the other hand, preparation was either a convenient tactic or a necessary though transient symbol for the transfer of power, although this was the one stage with which the preparatory theory was not designed to deal. A Westminster model became merely a tactic of negotiation on the one hand, or a symbol of independence, even of autochthony, on the other. In particular, some, like Jennings, saw the necessity of local adaptation yet clung to the notion that preparation could assimilate the problems of independence.

[63] *Report on Indian Constitutional Reforms*, Cd. 9109 (London 1918).

[64] *Report of the Indian Statutory Commission*, Cmd. 3569 (London 1930).

[65] Huxley and Perham, *Race and Politics* (London 1956), 10-11. One must temper one's judgment of F. D. Lugard. He surrendered the notion of administrative separation for Kenya by the 1940's (p. 12). Further, on returning to Nigeria in 1912 he had been upset by and was opposed to the extent to which indirect rule had spread in North Nigeria in 1906-11. He was in favor of more direct "ruling," despite his fiscal memorandum and his "dual mandate." He was in favor also, for example, of direct taxation. See M. Bull in K. E. Robinson and F. Madden, eds., *Essays in Imperial Government* (Oxford 1963), 47.

[66] *An African Survey*.

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Their idea was that the final Westminster-model constitution in full could be a useful and comparatively permanent guiding line for the new states. This notion was clearly faulty. For one thing, bills of rights, public service commissions, judicial service commissions, and so forth are unknown to the original. Further, the constitutional document was itself the most impermanent of things: a tactic, or a slogan on a banner.

Such a conclusion for preparation was a paradox, but not the only one. It was odd to expect bureaucrats to prepare responsible government; odd to educate through missions, schools, and a legislative council an elite that was always excluded either before or immediately after independence. Only one member of the 1951 Gold Coast Assembly government party had been "prepared."[67] After Simon, Donoughmore, and the rest had given so much attention to communal and minority problems, it was odd to use a model which is so much more than any other system open to unrestricted cabinet, party, and majority domination. It is not that the people were not good enough for Westminster; Westminster was, after all, a faulty model—an empty vessel, as it were, which could be filled with many different spirits.

It has already been suggested that the theory is a combination of Marx and Whigs. The Marxian side was given up: nonpolitical conditions for the stages of transfer were surrendered. The Whiggery cannot be sustained against either the actual early history or the very last stages of the later days. One may go beyond historical record in assessing the whole theory of preparation as the gradual, staged transfer of a model of government. Whether or not preparation had been adopted as a policy, one might consider how far it would even be valid as a theory of what might or should have occurred or now occur. This is in a way a more general question.

Five questions have to be put about the assumptions of the training or learning part of the theory. One is that it is precisely un-learning rather than learning that seems to be required. That has already been stressed in relation to the legislative council as a training ground for parliamentary government. It may have been a fault in a particular colonial record; more likely it is an inevitable fault in any preparatory process. The problem is not (as is often said) that people fail to learn the lesson, but on the contrary that the wrong lesson has been taught and then learned very well.[68] Secondly, the notion of learning is, any-

[67] Austin, "Institutional History," 81.

[68] T. F. Engholm, *The Uganda National Assembly*, Institute of Commonwealth Studies (London, November 1963).

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way, much too simple a model for the process of culture contact involved in a valid preparatory situation. Many other responses than imitation or incorporation (themselves alternatives) are possible: rejection, transformation, retreat, manifesto, trance, and so forth.[69] Thirdly, the learning almost inevitably involves the wrong people: a selected, not an evolved, elite, who will be rejected by the leadership turnover of the independence process.[70] Fourthly, the learning process is very partial: one thinks in the British experience especially of the neglect of localization and the limited use of native authorities.[71] Fifthly, learning clearly does not at all describe the process of preparation in its culminating—tactical and autochthonous—stages. What is involved then is not a matter of embryology but of tactics plus a national restatement. When such embryology has been successful in the earliest colonies, it was not as a result of learning or deliberate transfer at all, as Madden has reminded us, but of the political desires of the British colonialists themselves.[72] Even there a thorough transfer was never achieved.

Preparation for a particular model had to be tied to a specific constitution, yet the original itself is highly contingent. It is certainly not necessary to stress that in general. Yet one or two aspects do need emphasis. The faults of the U.K. constitutional system itself are just those which were likely to be exacerbated by transfer. One could scarcely think of a less transferable system in one sense, or a more transferable system in the sense that quite other essences of government could be fitted into it. Jennings said, "The process of adaptation to local circumstances is essential."[73] No doubt. But the adaptation was not to be guided by those in charge of preparation. That was not what preparation came to mean, though the effort toward adaptation was made, in a very un-Westminster way, with judicial service commissions and the like. The local adaptations were likely to be peculiar. If, then,

[69] Margaret Mead, *New Lives for Old* (London 1956), 16.

[70] Perham, *The Colonial Reckoning* (London 1962); K. Nkrumah, *The Autobiography of Kwame Nkrumah* (Edinburgh 1957).

[71] Hailey, *Native Administration in the British African Territories*, IV (London 1951), 29ff.

[72] Madden in Robinson and Madden, *Essays*, 20: "The superficial acceptance of the notion of the common form of government which developed in royal proprietary and corporate colonies is therefore misleading if it comes to the conclusion that it derived from any desire to export the Westminster model. The instruments of government which were devised by the Crown and its advisers were based on feudal and mercantile origins in palatinate or corporation. Perhaps it has relevance to the experience of parliamentary democracy among non-British people, to emphasise that it was the political ethos of Britons in exile which moulded the makeshift institutions they received into a likeness to the British. But there was no exact identity."

[73] p. 42.

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preparation did not really appear until very late in the day, it may also be said that it did not really occur then either. Transfer came to mean something quite different from a culmination of preparation for Westminster. Yet a consideration of the possible employment of any alternatives before transfer, including alternatives in organizational forms, was prevented. Now these may appear as the flaws of a particular record. The alternative is to regard them as almost inevitable concomitants of any such process. A consideration of the problem of administrative style would suggest that this is indeed the case.

The problem of bureaucracy needs as much emphasis as anything in the process of preparation and transfer. It receives the least, partly because of the concentration of the preparatory theory on constitutional points. Yet a special sort of bureaucracy is part of the contingency of the constitutional form. The creation of such a bureaucracy (itself a highly contingent thing) is inevitably difficult since it requires two different solutions. One is the creation by a nonministerial bureaucracy of a public service loyal to ministerial forms. The other is localization by an expatriate public service when localization challenges both the personal ambition and the public identifications of the expatriate bureaucracy—its standards, goals, tasks.

Other factors may worsen the problem: a late start, for example. The bureaucratic legacy of the British process had many features which aggravated the problem of a successful transfer: the social privilege of the service and especially of the administrator; his role in policy; his discretion; his relations with ministers, and his inexperience of neutrality or anonymity (the essential conditions for a ministerial public service of the Westminster type); his deep commitment to his own ideology,[74] an ideology quite unlike that proposed by a Bridges or a Bagehot; the salary gap; the place of the specialist. Such was the tradition which the people knew. Very late in the day, indeed, an attempt was made to impose quite a different model, though it was administration rather than constitutional forms which seemed to be continuous. Not surprisingly, the Tanganyika government quickly rejected the attempt to impose a delayed impartiality on the public service. There was no executive public service commission before

[74] Hailey, *Native Administration and Political Development*, 44: "The experience elsewhere shows the strength of the influence which a conception of this character can exercise in the day to day policy of administration. It tends almost insensibly to shape its institutions to conform with the final development indicated, even though it may at the moment appear to represent an ideal whose fulfilment must be left for the distant future."

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1962.[75] Such a commission was foreign to Westminster; it was not like the local tradition, nor probably was what was required or possible. The whole problem was exacerbated by the delayed and exaggerated form of Westminster bureaucracy which there was an attempt finally and probably unnecessarily to impose.[76]

Whatever the record, however, the bureaucratic problem must be profound. Further, there seems to be one inherent problem in the situation which makes Western bureaucracy an inappropriate model. It is not that the preparatory theory and the transfer and emergence processes are not of interest to Western public administration. They are of the greatest interest in relation to a whole series of questions, though great care is needed in comparisons, as in any discussion of corruption in the public service. What basically makes the model inappropriate is the necessary assumption for Western methods of what we might call "compartmentalism."

There are two central points about Western administration. One is that for the most part political responsibility can be total, though control is necessarily limited, because the bulk of administrative questions will have very limited ramifications, and a limited or a negative political significance. When questions do have such significance they will be referred up. The second is that administrative questions can be considered in a more or less rational way because all possible alternatives and consequences do not have to be considered, but only a few, only some: the rule of *ceteris paribus* is one of the greatest help and importance. Thus, both the responsibility and rationality of Western administration depend on the assumption that most questions have a limited significance and that where the limitations lie will be fairly obvious too. School building relates mainly to education and building, and so on. The nature of the assumption is essentially that the simulation involved in administrative decision-making—the metaphor used for the actual field—can be a process of simplification and elimination of a fairly radical kind. The condition of such simulation is extremely important and peculiar. It consists of a high degree of social stability, of a specialization of roles, and of a universalization of standards. Building a school will not revolutionize a community; the administrator is accepted as an administrator, whomsoever he is

[75] *Proposals for the Tanganyika Government for a Republic*, Government Paper No. 1 (Dar es Salaam 1962); J. Nyerere, Tanganyika African National Union Conference, 14 January 1963, in *African Digest* (April 1963), 161.

[76] Robinson, reported in *What Are the Problems of Parliamentary Government?*, 95.

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related to, wherever he lives, and so on; he is expected to act according to certain depersonalized universalistic or bureaucratic standards. These are the assumptions, and they are more or less valid. The assumptions can be relied on for the most part and most of the time without distress or disaster.

This can be put in other ways. For example, Dror has suggested (and Lindblom has accepted) that the notion that public decision-making can well proceed by a merely incremental process depends on conditions of social stability.[77] He specifies new states as an instance of the sort of situation where that sort of administration will not work. Incremental decision-making is an aspect of compartmentalized administrative behavior and it is ruled out in certain conditions.

Indeed the whole point about the situation of administration in the new states is that total compartmentalism is not workable there. The British Guiana police administration may lay down the rule that five feet, eight inches, should be the minimum height for recruits; the question is not compartmentalized, however, because the rule either is or appears to be a way of recruiting Africans but not Indians. What is true of apparent administrative rules for police recruitment is clearly true of question after question in administration in such conditions. The presuppositions on which compartmentalism can operate—stability, specialization, and universalization—simply do not exist. Indeed we might go further and say that these presuppositions would be resisted; they would not be acceptable. There are requirements other than efficiency, or efficiency is suspect, just as there are demands other than incorruptibility. This was, perhaps, obvious to colonial administration itself, which did not compartmentalize questions (and could get away with not doing so, as a result of the discretion and prestige of the colonial administrator).

What follows? A depoliticized public service cannot be created. It is almost certainly the wrong model to use. Other problems in the concept of preparation as a transfer of a model have been indicated and are familiar. The particular problem of compartmentalism has been almost totally neglected.[78] Its implications are considerable. What

[77] Y. Dror, "Muddling Through—'Science' or Inertia," *Public Administration Review*, XXIV (September 1964), 154; C. Lindblom, "Contexts for Change and Strategy: A Reply," *ibid.*, 157.

[78] Two brief discussions might be referred to, both noted after the material of this article was first presented. R. A. Packenham, in "Approaches to the Study of Political Development," *World Politics*, XVII (October 1964), 115, has suggested that the relationships in developing societies (so different from those assumed by F. W. Taylor and described here as the conditions of compartmentalism) may be studied

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is very likely is that to neglect and go against this difficulty will in the end lead either to a rejection of the Western method altogether or to an actual breakdown of the system. Yet at the very same time it has also to be recognized that to ask the West consciously to prepare not a neutral but a highly politicized public service may be to ask almost the impossible. We have not been good even at providing a consideration of alternative organizational forms to the hierarchy with which we are familiar. How then can we invent a sort of public service which will be relatively efficient and responsible and yet not compartmentalized at all? Yet if we cannot do just that, we cannot claim to be able to provide an effective preparatory process. This is a major, perhaps the major, conundrum of preparation.

Previous preparatory theory tended to misrepresent the British colonial record and to mislead us about what a preparatory process could be like. Alternative ideas may be worked out giving attention to matters ignored in the older theory. A great task for such a theory would be to answer this final conundrum. It will not be answered if it is ignored and goes unheard. An answer may depend on finding quite different conditions for relatively rational administration than those assumed by the compartmental style. The answer may depend on finding more appropriate models than those of the highly controlled bureaucracy of the settled societies. We need not assume that an answer will not be found. Indeed it may well be that in searching for the answer to this particular question we shall manage to escape at least in part from the pathology of the gap approach itself.

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by organization theorists to discover what sort of contribution they can make to organizational effectiveness. Secondly, V. A. Thompson, in "Objectives for Development Administration," *Administrative Science Quarterly*, IX (July 1964), 108, has written about the limiting conditions and irrelevance for new states of what he calls "control-oriented administration" in a way very similar to what has been said here about compartmentalism, and has indicated the outlines of a possible alternative, most helpfully.

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THE INTERNATIONAL BANK IN POLITICAL PERSPECTIVE

By DAVID A. BALDWIN*

I. Introduction

ALTHOUGH the International Bank for Reconstruction and Development has been in existence for nearly two decades, the political aspects of its activities have received scant attention. Most of the literature on IBRD operations has been written by economists, who quite naturally emphasize the economic aspects. Political scientists, to the extent that they have discussed it at all, have described most of its operations as removed "from the sphere of international or domestic politics."[1] The purpose of the following analysis is to determine in what respects the activities of the International Bank may be described as "political." Such a determination would be useful in three ways. First, it would, it is hoped, stimulate research on international organizations as actors in international politics; second, it would require revision of the standard explanations of the evolution of international development aid programs; and third, it would aid in evaluating the argument for more multilateral aid which assumes that such aid is "nonpolitical."

There is no universal agreement about just what it means to "be political." It is therefore useful to pause for a moment to examine the possible meanings of such a term as it might be applied to World Bank operations. The following pages will argue that these operations are "political" in three respects: (1) In carrying out their duties Bank officials cannot ignore political considerations, despite a formal ban on their doing so. (2) Activities of the IBRD affect the distribution of influence both within and among international actors, which is to say that such activities have political effects. (3) The IBRD performs as an international actor when it attempts to get governments to do things that they would not otherwise do. The discussion of these "political" aspects of IBRD operations will focus first on the relation

* This article is based on research conducted by the author while a Research Fellow at The Brookings Institution. The findings and conclusions are those of the author and do not purport to represent the views of The Brookings Institution, its trustees, officers, or staff members.

[1] John D. Montgomery, *The Politics of Foreign Aid* (New York 1962), 184.

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between commercial banks and politics, next on some alleged limits on Bank lending, and finally, on some real limits on this lending.

II. Commercial Banks and Politics

One of the great myths of American political folklore is that the activities of private businessmen are "nonpolitical." Businessmen in general, and bankers in particular, do not like to be described as wielding power. They prefer to minimize the amount of choice ascribed to them and to exaggerate the degree to which they are slaves of impersonal market forces that are beyond their control. In the case of bankers, the "maintenance of sound banking standards" is usually the impersonal, uncontrollable standard that is invoked to justify an act. Bankers like to perpetuate this image for two reasons. First, it serves as a front line of defense against government regulation. Why regulate those who exercise no discretion? And second, the device promotes smoother interpersonal relations. It is one thing to refuse a loan application because the applicant has failed to meet the "objective standards of bankability"; but it is another to say "I don't trust you." It will be seen later that IBRD officials, like commercial bankers, have tended to describe their loan denials in terms of the potential borrower's failure to pass certain "objective" tests of economic "soundness."

In which of the three senses identified above can normal commercial banking activities be described as "political"? Private commercial banking is "political" in the sense that political considerations must be accounted for in making a loan decision. Since the commercial banker's primary object is to make money, he is interested in answering two questions as he evaluates a loan application. Will the borrower be able to repay on time? And can I trust him to do so? The first question always involves political judgments; and when the borrower is a foreign government, both questions require such judgments. Although it is often implied that one can evaluate the "intrinsic economic merit" of a project without reference to political factors, it is actually impossible to do so. In a world where governments can expropriate property, manipulate exchange rates, and control the currency supply, it is nonsense to speak of evaluating the economic soundness of a project without reference to government behavior. Skeptics are invited to perform a simple empirical test. Ask any banker whether or not he would lend to a firm in Ruritania if he believed that the Ruritanian government was about to expropriate that firm's assets. If he says no, that

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indicates that he makes implicit—or perhaps even explicit—assumptions about political behavior in evaluating a loan application.

Private commercial banking is "political" not only in the sense that political factors must be assessed but also in the sense that banking decisions have political implications. Although a banker may perceive a loan to Ruritania for building an atomic reactor as merely business, such a loan would probably affect the international distribution of influence. Besides this international effect, a loan to a foreign borrower tends to affect the domestic politics of the borrowing nation. Given the existence of several groups in a nation, each with different opinions about how social and economic life should be organized, the transfer of capital to one group (such as landlords, businessmen, peasants, or government) will probably tend to increase the influence of that group.

In sum, private banking is "political" in two of the three senses of the word specified above. Thus, even if it were true, as Montgomery argues, that IBRD loans "were granted on the conventional banker's criterion of credit-worthiness,"[2] it would not follow that Bank activities were removed "from the sphere of international or domestic politics."[3]

III. IBRD Lending: The Standard Explanations

The conventional explanation of Bank lending emphasizes the similarity between IBRD and commercial banking activities. The IBRD is usually described as asking the same questions about willingness and ability to repay that the private banker asks. The usual discussion goes on to point out that certain limits are imposed on IBRD lending by the Articles of Agreement upon which the Bank is based. The three requirements most often cited as limits on Bank lending are the ban on competition with private investors, the limitation of loans to specific projects, and the restriction of financing to foreign-exchange costs of projects.[4] Let us analyze the degree to which these formal prohibitions actually do place restrictions on Bank officials.

Competition with private capital

The Articles of Agreement specifically forbid Bank administrators to lend to anyone unless they are satisfied that the borrower could not obtain a loan elsewhere "under conditions which *in the opinion of the*

[2] *Ibid.*, 182.
[3] *Ibid.*, 184.
[4] For examples of standard explanations see the following: Alec Cairncross, *The International Bank for Reconstruction and Development*, Essays in International Finance, No. 33 (Princeton 1959); and Delbert A. Snider, *Introduction to International Economics* (Homewood, Ill., 1954), 426-37.

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Bank are reasonable for the borrower."[5] The fact that the phrase in italics was included indicates the framers' recognition of the ambiguity of "reasonable terms." Since the Articles leave it to Bank officials to define "reasonable terms" in each specific case, one can hardly accept the proposition that Bank officials are inhibited in this respect.

Furthermore, the Articles say nothing about the time factor. What does one do if private capital is unavailable this year but there is reason to believe that it might be available next year? Bank officials are free to base their calculations of the availability of private capital on any time factor they choose.

All this is not to say that the IBRD does not try to avoid competing with private investors; it does. The point is that this action cannot be explained in terms of the formal "requirements" of the Articles of Agreement but can probably be more adequately explained in terms of the attitudes of Bank administrators. If one wants to account for the Bank's hesitancy to compete with private capital, he would do well to place less emphasis on the Articles of Agreement and more on the social and professional backgrounds of Bank officials. It is hardly a coincidence that the IBRD president, since 1947, has been drawn from the New York financial community.

SPECIFIC PROJECTS

A second alleged restriction on Bank administrators is the requirement that the IBRD lend only for "specific projects."[6] Few aspects of IBRD operations have been so misunderstood as the "specific project" provision. The project approach is supposed to limit total IBRD lending because of the small number of development projects that can be financed by hard loans.[7] By constant references to two types of projects, the "bankable" and "nonbankable," this line of thought implies that all projects are intrinsically of one type or the other. Not so. A nation, if it were earning foreign exchange from some other project in the economy, might be able to finance a totally worthless project—such as digging holes and filling them again—by means of a World Bank loan calling for repayment at commercial interest rates in foreign exchange. On the other hand, a government might default on a loan used to develop a "bankable" project, such as a petroleum field, because a

[5] IBRD, *Articles of Agreement*, Article III, Sec. 4 (ii). (Italics added.)
[6] *Ibid.*, Sec. 4 (vii).
[7] See, for example, the comments by Harlan Cleveland in his introduction to Robert G. A. Jackson, *The Case for an International Development Authority* (Syracuse 1959), 7; and Richard P. Stebbins, *The United States in World Affairs, 1958* (New York 1959), 404.

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corrupt government official stole all the foreign exchange from the treasury before the loan payment could be made.

National economies do not present themselves to IBRD officials neatly carved into easily identifiable specific projects, each with a tag designating it either "bankable" or "nonbankable." The administrators can exercise judgment in deciding what constitutes a project. Is a project, for example, a railroad tie, a track, a switch engine, a train, a set of operators, a whole railroad, or a transportation system? The capacity of a nation to service foreign debt—the capacity that determines whether a project is "bankable" or not—depends on its overall foreign exchange earnings, not on foreign exchange generated by a particular project.

It has been argued thus far that project lending need not restrict World Bank activities both because the term "project" is ambiguous and because the "bankability" of a project is not determined by the nature of the project but by the overall foreign exchange position of the country. Yet among typical descriptions of the IBRD are the following: "The necessity for the IBRD to be guided predominantly by sound business standards means . . . that there is not now any international organization which could finance non-self-liquidating projects in the underdeveloped countries."[8] "It is impossible . . . to raise money for various forms of social investment which the Bank rules out as unproductive; housing, schools, health services, and so on."[9] Such propositions notwithstanding, it is quite possible for the IBRD to finance such "non-self-liquidating" projects as schools, health services, and housing. To illustrate this possibility, suppose that the Ruritanian government plans to improve its harbors. Now harbor improvement is one of the World Bank's favorite "specific projects." If the Bank were to finance Ruritania's harbor improvement projects, the Ruritanian government would have available those resources which it had intended to spend on harbor improvement but which it could now transfer to finance health services and housing. The net effect of the IBRD loan in this case would be to permit building hospitals and housing; yet in the bookkeeping the loan was tied to a specific harbor improvement project. The only sensible way to measure the economic impact of an IBRD loan is to ask in what way the economy is different from what it would have been in the absence of the loan. If harbor improvements would have been undertaken even in the absence of an IBRD loan, but health

[8] William Y. Elliott, and others, *The Political Economy of American Foreign Policy* (New York 1955), 343.
[9] Cairncross, 18.

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services and housing would not, then the impact of the IBRD loan is on health services and housing. It is thus conceivable that the IBRD could finance health services and housing around the globe merely by tying its loans to "specific projects," such as harbor improvement, which would be financed even in the absence of IBRD loans. On paper, however, the Bank would have financed no housing or health services.[10] Thus, one must conclude that the "specific project" requirement need not limit IBRD loans, since the IBRD can always find some project to tie its loans to when it wants to make funds available to a nation.

Bank officials have been especially nettled by one criticism heard often in the first decade of Bank activities, but less frequently in the second. The criticism accuses IBRD administrators of evaluating particular projects in isolation, without reference to the overall development needs of the borrowing country.[11] The Bank has flatly stated that it does precisely the opposite.[12] In fact, one of the early Annual Reports pointed out that Bank lending was being held back not so much by a dearth of projects as by the absence of overall development plans in terms of which the proposed projects could be evaluated.[13] In reacting against criticism of its "specific project" approach the Bank has gone on to argue that "the *only* requirement which it imposes is that, before a loan is granted, there shall be a clear agreement both on how the proceeds of the loan are to be expended and on what the loan is expected to achieve."[14] One hesitates to accept even this statement of the extent to which the specific project provision "imposes requirements" on Bank lending. Although the provision does require that each loan be administratively tied to a specific project, this tie neither requires nor ensures that the ultimate impact of the loan will be on the financing of the project for which the loan is earmarked. The Bank's insistence on advance agreement on the use of loan proceeds is not "required" by the specific projects provision at all, but arises from its interest in knowing what it is financing.

[10] Few economists have discussed the economic insignificance of the project approach. The best discussion is in Thomas C. Schelling, *International Economics* (Boston 1958), 439-56.

[11] For an example of such criticism of the IBRD see Maxwell Graduate School of Citizenship and Public Affairs, Syracuse University, *The Operational Aspects of United States Foreign Policy*, U.S. Foreign Policy Study No. 6 (86th Cong., 1st Sess., 1959), 52.

[12] IBRD, *Policies and Operations of the World Bank, IFC, and IDA* (Washington 1962), 33.

[13] IBRD, *Third Annual Report, 1947-1948*, 16.

[14] IBRD, *Policies and Operations*, 32. (Italics added.)

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If the specific-project provision need not and does not limit total IBRD lending, why do Bank officials cling to it? First, the Articles of Agreement demand formal allegiance. Second, the specific-project approach provides a useful facade behind which the IBRD can and does advise on governmental policies affecting all parts of the economy. If someone objects to IBRD advice on governmental fiscal policy, Bank officials can always justify it by citing the possible ramifications of fiscal policy affecting the project they are financing—no matter how remote such connections might be. And third, the specific-project approach provides a convenient mechanism for joint consultation with the government in the recipient country and for channeling a continuing flow of information from the country to the IBRD. Whereas governments might be sensitive about Bank demands for information on the state of the economy if the Bank loans were for general purposes, they are apparently less so when the demands are justified in terms of the Bank's interest in a specific project. The significance, in sum, of the specific-project provision is tactical, not economic.[15]

FOREIGN EXCHANGE COSTS

A third supposed constitutional limit on Bank operations is the provision that the Bank will normally finance only the direct foreign exchange costs of a project.[16] Actually, this provision should be considered in the light of the basic operating principles delineated by the Bank in the *Second Annual Report*. In this statement the Bank clearly indicates its reluctance to finance—or rather, to appear to be financing—the total cost of any single project.[17] This is a means of inducing self-help measures on the part of the recipient. Recent IBRD statements also describe the "foreign exchange costs" approach as "a practical way of assuring that they [the recipients] will mobilize their own resources to meet a substantial part of the cost of the projects or programs concerned."[18] If IBRD administrators so desired, they could easily circumvent this provision, at least to the extent that imported goods and services could be substituted for domestic ones. They could also negate the provision's limiting effects by tying loans to projects which, first, would have especially high foreign exchange costs and, second, would be financed even without Bank assistance. Thus foreign exchange would be freed for use elsewhere.

[15] Cf. Schelling, 456-57.
[16] IBRD, *Articles of Agreement*, Article IV, Sec. 3.
[17] IBRD, *Second Annual Report, 1946-1947*, 15-18.
[18] IBRD, *Policies and Operations*, 38.

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If the above discussion of the ban on competition with private capital, the specific-projects provision, and the foreign-exchange-costs provision is accepted, one must conclude that the activities of IBRD officials are not restricted by these formal provisions of the Articles of Agreement. If these limits are ineffective, the standard explanation of IBRD operations leaves one without criteria for distinguishing between World Bank and commercial lending. The next question we shall take up, therefore, is whether or not the IBRD does differ from a private commercial bank.

IV. IBRD and Politics

The purpose of this study, to repeat, is to identify the "political" dimensions of IBRD operations. Having already established that private commercial banking is "political" in its effects on power distribution and its need to make political judgments, it follows that insofar as IBRD and commercial bank activities are similar, the IBRD activities are also "political." With regard to political factors in making loan decisions, the Bank has candidly admitted that "creditworthiness is not determined by economic forces alone."[19] The Bank has been less candid, however, in noting how greatly it has diverged from that provision in the Articles of Agreement which specifically forbids consideration of political factors.[20] The following passage implies that the Articles prohibit only the pursuit of political objectives and not the weighing of political factors: "Although the Bank is precluded by its Articles from making or declining to make loans to achieve political objectives, it cannot ignore conditions of obvious political instability or uncertainty which may directly affect the economic and financial prospects of the borrower, and the political situation, to the extent that it may bear upon the soundness of the proposed loan, must therefore be taken into account in the initial investigation."[21]

The operations of the IBRD are political not only in the same sense as are commercial bank activities, but in another sense as well. This additional political dimension stands out if one focuses on the differences between IBRD and commercial lending. In the first place, conventional commercial bankers pursue a goal different from that of the World Bank. Whereas the commercial banker is interested in making money, the administrators of the IBRD have viewed as its goal promoting economic reconstruction and development. Keynes had a dictum

[19] *Ibid.*, 32.
[20] Article IV, Sec. 10.
[21] IBRD, *Policies and Operations*, 47.

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that the Bank would not have discharged its duty if it had not dissipated its assets within ten years; and although few at Bretton Woods accepted this dictum, all agreed that the Bank's primary purpose was not to earn profits. Any student of Adam Smith knows that concentration on maximizing profits may be an effective way of promoting economic growth and that the commercial banker may well be inadvertently promoting this goal. If Bank administrators saw this as the case, there might be little to distinguish the behavior of the IBRD, with a primary goal of promoting growth, from that of the private bank in pursuit of profit. Those in charge of the IBRD, however, decided that they could best stimulate economic development by behaving in ways quite different from those of commercial lenders.

The private lender's goal of profit leads him to concentrate on answering two important questions in considering a loan application: Will the borrower be able to repay? And can he be trusted to repay? In answering these questions the private lender accepts as "given" the political and economic situation of the potential borrower, and together they work out the amount of debt which the potential borrower can safely incur. Although it is true that opinions may differ on this point, the borrower and lender presumably share a common interest in reaching a correct estimate. The IBRD, on the other hand, in considering a loan application, does not accept as "given" many of the things that a private lender does. It does not, for example, accept the political and economic situation of the potential borrower as given. In private lending terms, it is as if a boy were trying to borrow money to study law. The banker, despite his trust in the boy's ability and willingness to repay the loan, tells him that lawyers are bad people and that he should be a farmer. The banker then adds that he is going to "encourage" the boy to become a farmer instead of a lawyer by refusing to lend him the money to go to law school. In such a situation the banker would have refused to accept as "given" the boy's desire to study law and would have taken upon himself the task of changing the boy's desires. Similar examples are rare in private lending practice because bankers are usually more interested in making money than in reforming their potential borrowers. Examples of the strategic withholding of loans in IBRD practice, however, are numerous because the IBRD is more interested in promoting economic development than in earning money. To a potential borrower who estimates his debt-servicing capacity in terms of a given political and economic situation, the IBRD is likely to reply, "Change the situation." In reply to underdeveloped countries that complain of a "need" for capital on lenient terms

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because of their "inability" to attract private capital and to service orthodox loans, the Bank is likely to advise adopting new governmental policies that would enable them to attract private capital and service hard loans.

One important result of the International Bank's refusal to accept political and economic situations as "given" is that its lending situations involve a higher degree of conflict than those of private lenders. Moreover, since there are various ways of stimulating economic development, opinions differ about which are best. Because IBRD lending situations involve a high degree of conflict, it will be argued that certain concepts developed by the game theorists are helpful in understanding the political aspects of World Bank operations. Thomas C. Schelling has suggested that most conflict situations are essentially bargaining situations; that is, they are situations in which the ability of one participant to gain his ends is dependent to an important degree on the decisions that the other participant will make.[22] Officials of the IBRD do seem to believe that the amount of capital requested from the Bank by underdeveloped countries depends to a large extent on the amount the governments of those countries think is likely to be forthcoming.[23] One could plausibly argue that the behavior of potential recipient governments is affected by their expectations of IBRD behavior. For example, if a government were convinced that neither the IBRD nor other public sources were likely to make capital available, it might decide to be especially hospitable to private foreign investors. On the other hand, if there were reason to believe that large-scale public capital probably would be available, the governments of potential recipient nations would have an incentive to treat private foreign investors especially harshly in order that they could later show a greater "need" for public capital.

Many of the Bank's actions in promoting economic development are clearly those of an actor in international politics; that is, the Bank often tries to induce governments to behave in ways in which they would not otherwise behave.[24] Early in its history the Bank decided to interest itself first in influencing the behavior of governments and only secondarily in making loans. The *Second Annual Report* refers to the goal of exerting a "helpful influence" on member governments in

[22] *The Strategy of Conflict* (Cambridge, Mass., 1960), 5.

[23] Professor Machlup has argued that this is a sensible way to conceive the borrower-lender situation. See Fritz Machlup, "Three Concepts of the Balance of Payments and the So-Called Dollar Shortage," *Economic Journal*, LX (March 1950), 56-58.

[24] On this point see Robert A. Dahl, *Modern Political Analysis* (Englewood Cliffs, N.J., 1963), 39-54.

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order to persuade them to remove trade barriers and adopt sound financial programs.[25] And the *Third Annual Report* clarifies further the objectives of the Bank as seen by its administrators: "It seems clear that the real measure of the Bank's effectiveness will be, not so much the number or amount of its loans and guarantees, significant as they may be, but rather its success in influencing attitudes—in promoting a realistic, constructive approach to development problems on the part of its members and in fostering a greater degree of confidence among investors."[26]

In its efforts to stimulate economic development by influencing governmental behavior, the International Bank has employed tactics similar to those discussed by students of game theory. The essence of these tactics, according to Schelling, is some "voluntary but irreversible sacrifice of freedom of choice."[27] They rest on the paradox that the power to constrain an adversary may depend on the power to bind oneself. Various IBRD statements and actions in the last twenty years have indicated clearly the Bank's desire to constrain potential borrowers by encouraging them to (1) pass legislation favorable to private foreign investors,[28] (2) control inflation,[29] (3) pay private external debts,[30] (4) avoid government-managed enterprises,[31] (5) improve the "climate of investment" in other ways,[32] and (6) plan development programs to provide a basis on which the IBRD could judge the net effect of a proposed loan.[33] In pursuing these goals the Bank has relied primarily on the technique of binding itself by declarations that it would withhold loans from governments following undesirable policies. Although this strategic nonlending is probably the most important technique by which the IBRD has sought to achieve its goals, it has been overlooked by most critics of IBRD activities. One author, for ex-

[25] p. 8. [26] p. 21.

[27] *Strategy of Conflict*, 22.

[28] IBRD, *Second Annual Report*, 14.

[29] IBRD, Eleventh Annual Meeting of the Board of Governors, *Summary Proceedings* (1956), 12-13; *Second Annual Report*, 13-14; *Third Annual Report*, 15-16; *Policies and Operations*, 40-41.

[30] IBRD, *Second Annual Report*, 13; IBRD, *The International Bank for Reconstruction and Development, 1946-1953* (Baltimore 1954), 54 (this is an early version of *Policies and Operations*, and is cited here to illustrate the continuity of bank thinking; contrary to widespread belief, there is very little difference between the 1954 and 1962 editions of this book); *Policies and Operations*, 41.

[31] James Morris, *The Road to Huddersfield* (New York 1963), 43; IBRD, *IBRD, 1946-1953*, 49, 54-55; *Policies and Operations*, 37, 41-42.

[32] IBRD, *Fourth Annual Report, 1948-1949*, 8; *Second Annual Report*, 13; *IBRD, 1946-1953*, 43-44, 54, 61; *Policies and Operations*, 31-32, 40-42, 47.

[33] IBRD, *Third Annual Report*, 16; *IBRD, 1946-1953*, 44-45; *Policies and Operations*, 32-38.

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ample, lists the guaranteeing of private loans and the financing of "basic" projects as the means by which the IBRD has sought to stimulate private investment.[34] There is no mention of the most important device used by the Bank to stimulate private investment—the refusal to lend for projects which, in the judgment of the Bank officials, could be financed by private capital. Another writer describes the IBRD as "first and foremost a lender on long-term."[35] Such a description is understandable in view of the ease of counting loans actually made and the difficulty of counting loans withheld; but if one conceives of Bank operations in terms of a bargaining situation, he will realize that one could just as plausibly describe the IBRD as "first and foremost a nonlender." The full significance of the conventional explanation of the Bank's failure to make more hard loans—the explanation based on the constitutional limitations discussed in Section III above—can be appreciated only after one understands the Bank's strategic nonlending policy. Not only is such an explanation wrong, but it also draws attention away from the real reasons for withholding certain loans, and thus it inhibits understanding of the most important technique used by the IBRD to influence the behavior of governments. Given the widespread acceptance of this standard explanation of IBRD lending, it is small wonder that the political dimension of Bank operations has been overlooked.

V. Conclusion

IBRD and Politics

On the basis of the foregoing discussion one may conclude that the activities of the International Bank are "political" in three respects: (1) Bank administrators must take political considerations into account in assessing the willingness and ability of a potential borrower to repay a loan, despite the fact that such action is specifically forbidden by the Articles of Agreement. (2) World Bank loans, like all capital transfers, have political implications insofar as they affect the distribution of power both among and within nations. (3) At times the IBRD behaves like other actors in international politics in that it tries to influence the behavior of governments.

The foregoing analysis suggests that students of foreign policy should be wary of the contention of Senator J. W. Fulbright and others that aid furnished via multilateral channels is "nonpolitical."

[34] Snider, 435.
[35] Cairncross, 6.

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GAME THEORY

It has been argued that IBRD operations can be conceived of in terms of the "bargaining situations" which have been discussed by game theorists. Such conceptualization proves useful in ferreting out a neglected aspect of IBRD activities—the strategic withholding of loans. Failure to think of IBRD operations in bargaining terms largely accounts for the absence of discussion of the political aspects of such operations.

FOREIGN AID HISTORY

Since World War II, the form of public capital transfers for economic development has tended to change from hard loans to soft ones. Standard explanations of this tendency have depicted the situation as one in which the hard lenders, such as the IBRD, were trying to maximize the amount of capital they were moving abroad. In this effort they were limited only by considerations of "bankability" and, in the case of the IBRD, by certain constitutional limitations. There was a "need," so the story goes, for additional capital to finance projects which were innately "nonbankable" and which therefore "could not" be financed by the IBRD. As proof, the standard explanations often cite the absence of financing for schools or other "worthwhile" projects. There is rarely any indication that the IBRD might have withheld loans for "worthwhile" projects in order to induce changes in governmental policies. Instead, one finds great stress being placed on "limited debt-servicing capacities" and "non-self-liquidating projects" and on what the World Bank "could" and "could not" do. There is little mention of what the Bank "would" and "would not" do. It is implicitly assumed that the IBRD and the underdeveloped countries shared a desire to maximize the amount of IBRD lending. I submit that the history of the evolution of international development aid programs needs to be rewritten on the basis of an explicit recognition of the bargaining aspects of the lender-borrower relationship.

RESEARCH IMPLICATIONS

The foregoing discussion of the political aspects of an international economic organization suggests the usefulness of similar studies. Two relatively neglected topics need to be analyzed: (1) the political aspects of activities of economic organizations and (2) the role of international organizations as actors in international politics.

Research implications for IBRD activities also emerge. If Bank officials do indeed have considerable latitude for the exercise of judg-

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ment in administering Bank affairs, then it would be interesting to know what factors influence their decisions. Little research has so far been done on the political and social backgrounds of those in charge of the IBRD. Rejection of the view of Bank officials as puppets following the dictates of "sound banking practice" and the Articles of Agreement would also pave the way for reconsideration of the relationship of the United States to the IBRD. Suggestions that the IBRD is subservient to the United States have been variously denounced as a "complete travesty,"[36] a "myth,"[37] or as "alleged."[38] It may be that the question of IBRD subservience to the United States is merely poorly framed. Perhaps one should ask instead: (1) What is the degree of subservience; (2) to which agencies or interest groups in the United States is the Bank subservient; and (3) on what types of issues? There are at least the following reasons for suspecting some degree of subservience, to some groups, on some issues: (1) The United States economy is so large, relative to the world economy, that the World Bank would have an incentive to coordinate its efforts with those of the United States even if the United States were not a Bank member. American aid programs, for example, could seriously undermine the effectiveness of any IBRD activity. (2) The United States *is* a member and is the biggest contributor; it wields one-third of the voting power, and its position as the biggest *potential* contributor affects Bank policies. (3) The Bank depends, although to a diminishing degree, on the American private capital market. (4) The United States has always selected the Bank president, who presumably has "internalized" American values which lead him to see things in the American frame of reference. Any proof that the IBRD is not subservient to American interests must account for these facts; none to date has done so.

[36] *Ibid.*, 31.

[37] B. E. Matecki, *Establishment of the International Finance Corporation and United States Policy* (New York 1957), 162.

[38] Robert E. Asher, and others, *The United Nations and Economic and Social Cooperation* (Washington 1957), 166.

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Review Articles

COEXISTENCE AND COOPERATION IN INTERNATIONAL LAW

By RICHARD J. BARNET

Wolfgang Friedmann, *The Changing Structure of International Law*, New York, Columbia University Press, 1964, 381 pp. $8.75.
Georg Schwarzenberger, *The Frontiers of International Law*, London, Stevens, 1962, 320 pp. £4 4s.

I

THE political scientist and the politician of our day both tend to be skeptical of international law. The political scientist, who is interested in studying the distribution of power, sees in the classic rules of international law neither an adequate description of the conduct of states nor an effective prescription for ordering national conduct. The politician, who is interested in the exercise of power, finds it difficult to realize what he considers vital national interests within the traditional legal framework. Both scholars and practitioners apparently feel that the older rhetoric of international law—nonintervention, peaceful settlement of disputes, the law of war—is to a great extent irrelevant to a world in turmoil. Bombings without declaration of war, illegal reprisals, campaigns of political assassination, and military intervention to crush internal revolt are accepted as part of the backdrop of world conflict. It seems increasingly clear that the classic rules of international law and the basic political and moral principles on which they rest are now used less and less by the great powers even as points of reference. Nothing sounds more old-fashioned than Secretary Stimson's remarks of less than forty years ago, in advising against the establishment of a national intelligence service, that "gentlemen don't read each other's mail."

Professors Friedmann and Schwarzenberger have performed an important service in discussing and analyzing the reasons for the changing role of international law and the possible evolution of transnational legal systems. Schwarzenberger's book, which is a collection of articles published over the last twenty years, makes no effort to deal comprehensively with new developments in international law. The "frontiers" he is interested in are analytical. He is concerned with applying socio-

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logical, historical, and ethical perspectives to international law. The most useful portions of the volume are the historical surveys of early English practice on such matters as treaties, alliances, laws of war, and the pacific settlement of disputes. The discussion of the "Impact of the East-West Rift in International Law," originally published in 1950, is dated. It is hardly, as Schwarzenberger suggests in his introduction, "as good a point of departure as any for understanding the relatively subordinate role of law" (p. 4) in U.S.-Soviet relations, for it fails to take account of the Austrian State Treaty, the Antarctica Treaty, Soviet participation in the International Atomic Energy Agency and UN specialized agencies, and the limited test ban, and neglects such major political developments as the loosening of the two blocs and the increased activity of the unaligned nations. While his essential point that law plays a relatively subordinate role in U.S.-Soviet relations is, of course, correct, it is a far more complex point than this fifteen-year-old article suggests.

Professor Schwarzenberger shares with Professor Friedmann the premise that traditional analyses of international law are inadequate to describe either the basis of obligation in the international community or what in fact happens in the legal relations of states. As Friedmann puts it, "The science of international law is . . . still predominantly based on the system of international relations as it developed from the time of Grotius and Gentili to the beginning of the twentieth century" (p. 3). He believes that the structural changes in international relations in our time constitute "basic challenges" to the structure of international law.

The Changing Structure of International Law is a comprehensive survey of international law and organization written within an analytical framework of impressive sweep. Its purpose is to trace the impact of the major changes in the international system on the substance and procedure of law-making among nations. Friedmann begins by recounting the developments which have completely transformed the worlds of the seventeenth, eighteenth, and nineteenth centuries in which international law grew.

The overriding supremacy of the nation-state, the foundation of the classic legal and political system, has been undermined both by the expansion of the international community and by the complexity of the new problems facing that community. Friedmann points to the rapid increase in the number of independent units subject to international law. The birth of new nations has changed what was formerly "the exclusive club of Western Christian nations" into a "vast conglom-

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eration" of states representing "completely different religious and social cultures" (p. 5). International relations is no longer the exclusive province of princes, or even diplomats. The growing participation of various interests within nations in transnational problems, the growing concern of individual nations with questions of political, economic, and social organization within other states, the growing role of domestic politics and propaganda in the conduct of foreign policy, and the importance of ideologies with transnational pretensions have complicated international relations and added many new dimensions to international law. Rules prescribing correct relations between one state and another in such matters as the legal status of the high seas, the adjustment of territorial sovereignties, and the diplomatic and jurisdictional immunities of states provided reasonably effective legal regulation as long as international relations did not purport to deal with matters of internal policy and ideology. But once nations began to rationalize the right of national and international agencies, as well as of private citizens, to intervene in the internal affairs of other countries to either support revolution, protect private investment, or oppose domestic political systems and practices, the simple rules of classic international law, based on treating a nation as a single unit, were increasingly ignored.

Virtually all nations now profess an interest in the internal affairs of other states. African statesmen denounce the United States for the treatment of Negroes within its own territory. The UN condemns South Africa for *apartheid*. The United States declares that it will not permit further Communist governments in the Western Hemisphere and dispatches troops to enforce its will. The Chinese call for wars of liberation against the governments of the new non-Communist states of Asia.

Neither national states nor international agencies deal any longer with one another exclusively as units. Relations are conducted on many levels. The United States, for example, has technical missions, military missions, and aid missions operating simultaneously in a number of countries, sometimes with conflicting policies. Friedmann points to the multiplicity of their private, semiprivate, and official relations, and argues that the growing body of treaties, international organizations, and practices constitutes a new international law of cooperation that is growing up independent of the older law of coexistence.

The scope of international problems has also changed dramatically. Three-quarters of the inhabitants of the globe are undergoing a process of economic and political development that has transformed them

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from "passive and inarticulate objects of international politics into active participants" (p. 11). Indeed, transformation of internal societies is now the principal focus of private economic activity, of the work of international agencies, and of cold-war diplomacy. Most of the institutions which undergird the international law of cooperation are in some way attempting to deal with internal social and economic change. It is a rather new notion that the resources of the planet are limited and exhaustible and that the disparity between rich nations and poor is dangerous. The international community formerly operated on the assumption that its membership was limited to Europe and North America and that the "noncivilized" nonmembers existed primarily to provide resources and markets. But the former colonies are demanding not only membership in the community, but also revision of the trade and investment policies on which the European state system operated.

Overshadowing even these fundamental changes is the changed face of war. Friedmann points out that the First World War taught the futility of war as a means of shifting wealth from the vanquished to the victor. Germany soon recovered in the form of bank loans from the Allies the sums she paid out in reparations, for the victors could not afford the collapse of the German economy. After World War II the rapid recovery of Germany and Japan with massive American assistance made conquest by the U.S. look like the road to fortune. Thus the international economy now appears to preclude wars of plunder against states that are important to the international economy. Finally, the advent of nuclear weapons has made it clear that no nation, no matter how powerful, can count on defending its citizens.

II

It is Friedmann's thesis that the changing role of international law cannot be adequately understood by speaking of it "as one body of principles." Rather, he speaks of "various patterns and levels of international relations," which are only to a limited extent governed by the same principles. He proposes that we think of modern international law as moving on three different levels: "(a) The international law of coexistence, i.e. the classical system of international law regulating diplomatic interstate relations, orders the coexistence of states regardless of their social and economic structure. (b) The universal international law of co-operation, i.e. the body of legal rules regulating universal human concerns, the range of which is constantly expanding,

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extends from matters of international security to questions of international communication, health and welfare. (c) Closely knit regional groupings can proceed further with the common regulation of their affairs because they are linked by a greater degree of community of interests and values, and usually also of regional proximity, than mankind at large. They can therefore act as pioneers in the transition from international to community law" (p. 367).

The most significant contributions of the book are his analyses of the law of cooperation. Friedmann believes that preoccupation with the Austinian definition of law as command has impaired constructive analysis of the possibilities of legal control of international politics. He would agree in substantial measure with Schwarzenberger's conclusion that "power and not law is the overriding consideration in world affairs" and that "states, especially world powers . . . tend to reserve to themselves complete freedom of action" in matters they regard as vital to their interests (p. 41). But law has functions other than to prohibit or to command. It can also empower.

Starting from H. L. A. Hart's definition of law as an instrument for providing individuals with "facilities for realizing their wishes," Friedmann points out that law now guides many aspects of international life by establishing standards in such matters as human rights and labor conditions, facilities such as the World Health Organization and other specialized agencies of the UN, and mechanisms for planning and ordering the future, such as the various international development banks. The author covers a broad field of activities in which international governmental organizations, corporations, political parties, pressure groups, private associations, and individuals derive a status from international law which gives them a legitimate basis for acting across national boundaries.

The growth of these many transnational connections has enormous implications for the evolution of international relations. The national state is losing the monopolistic role in international relations to which it has aspired. Ironically, this process is well under way at the very moment when the pretensions of the great powers, even of democratic societies, to control all aspects of their foreign relations have never been higher. In all but a few small countries, travel policy, information policy, and cultural exchange policy are made expressly subservient to the dominant political objectives of the state. Nonetheless, there are so many new actors in international relations which have legal or quasi-legal status, such as the specialized agencies of the UN, the European Coal and Steel Community, the Red Cross, the Interna-

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tional Chamber of Commerce, the European Economic Community, that decision-making on international problems can no longer be concentrated in national governments. While it is true, as Friedmann points out, that certain private groups, notably cartels, now have less freedom to operate independently in the international community than they used to have, many new groups representing principally economic and welfare concerns now have authority to act on important public questions without being limited by national boundaries. The activity of such groups and agencies creates both law and power. It has the effect of preempting areas of decision from national states and to that extent circumscribing national sovereignty.

Friedmann, as well as Schwarzenberger, distinguishes the international law of "positive international collaboration," which can help create a sense of community, from the traditional international law, which, in Schwarzenberger's terms, stabilizes the relations of power. Schwarzenberger explicitly rests his analysis of the "Law of Power" (the traditional international law of sanctions) and the "Law of Coordination and Reciprocity" on the distinction of Sir Henry Maine and F. Toennies between society and community. "While a society is a means to an end," Schwarzenberger declares, "a community is an end in itself. Whereas a society is based on interest and fear, a community requires self-sacrifice and love. The one is founded on distrust, and the other presupposes mutual trust" (p. 11). Only in a community can law have a basis other than power.

Friedmann argues that most community law is being built on a regional basis. Increasingly, the inhabitants of a geographical area with common traditions, customs, and values undertake joint projects for their mutual benefit and thus develop the legal relations for carrying them out. Such cooperation on a world basis is also going on, particularly in the health and technical fields, but the process of community building is far slower.

Both Friedmann's and Schwarzenberger's analyses confirm the view that international law may play a greater role in transforming conflict by creating new institutions for building consensus than by developing sanctions. In an international law where nations are the primary actors, the development of consensus is very difficult. Since national governments are primarily interested in such goals as security, status, and power, their inclinations are more competitive than cooperative. Even in the area in which nations traditionally cooperate the most—defense—there is little chance to build a durable community, for allies normally fall apart when the common danger subsides.

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Private groups within nations, or transnational government, or quasi-governmental agencies, with limited interests in economic, social, or welfare matters, may, however, be able to establish more cooperative relationships with groups in other countries than one national government can establish with another. Such groups become concerned with concrete common tasks rather than abstract commitments. The function and authority of a nation are largely symbolic—that is, a nation derives its power from the fact that it stands for and acts for large groups of individuals. Because of its role, it must of necessity deal with large abstractions such as "security" and "the national interest." The state is absorbed with questions of honor, prestige, and contests of will far more than are groups with specific interests. Often, the private interest which ties a group to its counterpart in another country is more important to it than are the vital issues of national policy over which one state confronts another. Thus the U.S. Chamber of Commerce at a time of bitter national confrontation with Communist China proposes that American businessmen begin to trade with her.

III

But if the hope of a future world community rests on the expansion and development of the international law of cooperation, the stability of the present world of nation-states still depends upon the international law of coexistence. The present crisis of lawlessness is a result of the anomalous position of the nation-state in the twentieth century. On the one hand, the nation is obsolescent because, quite obviously, it is not suited to carrying out the primary tasks of international life. By itself a single state cannot solve problems of war, economic development, distribution of scarce resources, or control of disease. Nor, indeed, can it defend its own citizens. On the other hand, the nation is still the primary unit of international relations. In the traditional currency of world politics—the capacity to wield military might—at least two nations are more powerful than any nation has ever before been. While they may be able to achieve few goals with this accumulation of military power, this fact has not dissuaded a generation of new countries from emulating their elders. In their rhetoric if not in their practice, the great powers recognize the limitations of nationhood in the modern world. But the smaller nations, which are caught in a struggle to create national identity, are interested in developing, not restricting, notions of sovereignty. New nations have tried to use the doctrine of the sovereign equality of states as a legal bulwark against

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their more powerful neighbors. The respect for the rules of coexistence has declined as the number of states has increased and the disparity in power between the strong and weak has widened. The classic international law of coexistence was, to a considerable extent, a compact among equals. It was intended to apply reciprocal rights and duties to major units of power like Britain, France, Russia, and Austria. It was not established with states like South Vietnam, Zambia, or the Ivory Coast in mind. Faced with the choice of either according to primitive nations the same legal treatment that they were more or less willing to accord each other, or of rejecting the presumptions of classic international law against intervention, the powerful nations, including the United States, have chosen the latter course.[1]

Few statesmen would use the unvarnished rhetoric of Dean Acheson (in defending U.S. action in the Cuban missile crisis) that the survival of national states is entirely beyond the reach of international law. But almost all of them are prepared to rationalize breaking or suspending the rules limiting the absolute freedom of action of the nation-state in any case where it appears important to do so. The attacks on Hungary, Vietnam, the Dominican Republic, Tibet, Goa, and Tanganyika are among the most prominent examples of military interventions in violation of customary international law and the UN Charter.

The argument for action in each of these cases was that the international system lacked an alternative means of correcting what was regarded as an intolerable situation. Implicit in all these cases was the assumption that a nation-state has the right to decide unilaterally what is an intolerable situation justifying the use of force. Schwarzenberger points out in his essay "The Impact of the East-West Rift on International Law" that neither side in the cold war has sufficient confidence in the legal machinery of coexistence—arbitration, collective security, adjudication—to trust it in place of its own power to produce a satisfactory resolution. Thus while Friedmann is correct in his observation that "strengthening international law and authority"

[1] In his memoirs President Eisenhower gives an illuminating insight into the attitude the leaders of great powers take toward legal constraints on such policy decisions. In June 1954 he was faced by a choice whether or not to support openly, by supplying the invaders with fighter-bombers, the Castillo invasion that overturned the Communist-leaning Arbenz government of Guatemala. The Assistant Secretary of State argued that this would constitute an illegal intervention, but the President decided in favor of sending the planes. In relating the incident, he quotes admiringly a comment by Allen Dulles, who had urged him to take this action. "Allen was equal to the situation. 'Mr. President,' he said, a grin on his face, 'when I saw Henry [the Assistant Secretary] walking into your office with three large law books under his arm, I knew he had lost his case already.' "

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represents "enlightened national interest" and is "the best or even the only way of ensuring national survival," he is also right in his pessimistic conclusion that "the leading statesmen and the majority of writers on international politics in our time still regard the pursuit of the national interest . . . as opposed to the values of international order" (p. 48).

The combination of cold war and revolution has convinced most statesmen in charge of nation-states that they cannot afford to rely on outside legal or political machinery to deal with critical problems of coexistence. In the past five years the United States has entrusted little authority on major issues either to the United Nations or to regional security organizations such as NATO or the OAS. The USSR has been even less willing to submit its actions to either the limitation or the judgment of international organization.

Friedmann describes the present state of international law as "an era of either dawn or twilight." He believes that the international law system will have to develop clearer standards and more effective sanctions or "decline and perish." But the fear of chaos, which some had hoped would be the stimulus to greater observance of the rules of coexistence, has had exactly the opposite effect. Since national governments have little confidence in the stability of the international system, they are unwilling in any particular crisis to accept legal constraints on their conduct for the sake of preserving the system. To submit to the law would be to take a chance on the outcome and to risk a defeat. Governments will not observe a "collection of don'ts," as Friedmann characterizes the traditional system of international law, if they think that obedience means disaster. The more chaotic the international environment, the higher a government will set its security requirements and the more convinced it will be that each particular crisis raises the ultimate issue of victory or defeat.

The most interesting question suggested by Friedmann's book, therefore, is whether or not the new law of cooperation has a role in creating a political climate that will encourage national governments to greater observance of legal restraints. He only begins to explore the possible interaction of the "Law of Coordination and Reciprocity" and the traditional "Law of Power." But a better understanding of the nexus between the old law and the new now appears to be the major task of legal scholarship. Friedmann talks of the "law of cooperation" and the "law of coexistence" as distinct systems. But perhaps the developing set of new legal relationships can become an instrument for reconstituting an international society in which nations will be

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more willing to accept international standards of conduct. This might come about because the web of new economic, social, and political connections that transcend or bypass the traditional government-to-government relationship has created new centers of power and authority in international politics. These new groups are likely to have an interest in restraining national governments from disturbing valuable transnational relationships by illegal conduct or the unilateral use of force. It should become apparent to these new actors in international politics that observance by states of some code of prohibitions is a precondition for developing a legal and political framework for positive cooperation. Moreover, progress toward an international legal framework to enable the continuation of important common tasks may shift the focus of national energies increasingly from competition to cooperation. For only if the law is viewed as an indispensable instrument for solving basic problems will it be accorded the respect needed for an international order.

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LABORATORY, LAW, AND ANECDOTE

Negotiations and the Integration of Data

By WESLEY L. GOULD

Fred Charles Iklé, *How Nations Negotiate*, New York, Harper & Row, 1964, xii, 274 pp. $5.95.

INTERNATIONAL bargaining and negotiation are subjects about which there has long been much speculation and the offering of much advice. Accounts of bargaining experiences, as well as the assembly and ordering of real-world data and inferences drawn therefrom (particularly when they lead to the maxims of a Callières, a Nicolson, or a Lippmann) raise questions that require investigation by all available means, including experimentation in laboratories when feasible. Laboratory investigation can be confined to overt behavior—proposals, arguments, threats, outcomes, and so on—or the laboratory can be employed to seek data on attitudes, intentions, expectations, and perceptions, and thereby to probe where historical data seldom penetrate. Computer technology adds flexibility, control, and efficiency to laboratory data collection. It permits, during the course of an experiment, questions that probe the subjective aspects of a negotiation without the distortion that results from the presence of an interrogator.

What has so far been learned from experimentation sometimes suggests revision of conclusions based upon such sources as historical accounts, memoirs, and documents. But laboratory and computer do not replace other techniques, for much that is at play in the real world is excluded under controlled conditions. Comprehensive treatment of negotiation still rests upon evidence from the real world, its accompanying distortions, and the gaps therein that have been filled by speculation concerning actors' attitudes, expectations, intentions, and perceptions. The risk, particularly in the case of very recent international events, is that unreliability of data will force an approach that is highly "iffy" in nature, although some significant variables can probably be identified by resort to case studies of international business negotiations.[1] It is a most welcome occurrence that Fred C. Iklé has explored the risky ground of international negotiation, has skillfully handled historical materials, memoirs, and reports of negotia-

[1] E.g., Richard D. Robinson, *Cases in International Business* (New York 1962), especially the negotiation between Merck & Co. and the Government of India, 100-117.

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tions, and has speculated about attitudes, expectations, intentions, and perceptions without disguising uncertainties. He has conducted his exploration among anecdotes while bearing in mind bargaining studies (such as those by Siegel and Fouraker, Carl Stevens, and James W. Kuhn) on levels other than the intergovernmental, even though restricting his exposition to negotiations among nations.

I

By "negotiation" Iklé refers to a process that regulates conflict, "a process in which explicit proposals are put forward ostensibly for the purpose of reaching agreement on an exchange or on the realization of a common interest where conflicting interests are present" (pp. 3-4). "Bargaining" is treated as a term of broader scope that includes tacit bargaining—that is, an interaction lacking a confrontation of explicit proposals and taken in awareness that other governments are observing and interpreting one's actions.

Iklé's concepts rest, as he acknowledges, primarily on the theoretical foundations supplied by Thomas C. Schelling, whose constructs lie also within the conflict context. It may be argued that the area of conflict is extended too far when it is posited as a necessary condition for negotiations; I would hesitate to rule out without investigation the possibility that some of the thousands of international agreements, particularly problem-solving agreements, produced to date were negotiated in the absence of conflict. Perhaps the East-West conflict and East-West negotiations so dominate the mind that they predetermine perception of all negotiations. Or perhaps the excitement of conflict entrances the intellectual as well as the public.[2]

Concerned with the relation in the conflict setting of process to outcome, Iklé produces an essentially longitudinal model: conflict → negotiating objectives → proposals → tactics → outcomes. He develops in these terms, but with an awareness of overlaps and feedback, an analysis sometimes brilliant in insight, e.g., in the exposure of some myths concerning propriety and tactics in negotiating. The conflict situation is analyzed as embracing both issues of conflict and common interests. The latter are subdivided into "substantive common interest" in a single arrangement or object and "complementary common interest" in an exchange of different objects—a distinction essentially

[2] Joseph B. Cooper, in "Psychological Literature on the Prevention of War," *Bulletin of the Research Exchange on the Prevention of War*, III (January 1965), 2-15, found that between 1941 and 1953 there were 68 abstracted psychological articles dealing explicitly with peace compared with 1,048 dealing with war.

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identical with Triepel's outcomes, *Vereinbarung* and *Vertrag*.[3]

Negotiations and negotiating styles are made dependent upon whether participants, even though in conflict, are (a) friendly or allied, or (b) hostile, thereby partly mitigating the rigor of the conflict requirement. However, my own catalogue of textual references to degrees of friendship and hostility suggests that Iklé has actually employed the following more precise continuum: friendly allied, friendly, friendly neutral, purely nonaligned, hostile neutral, hostile, hostile allied. Since negotiations are susceptible of being carried on within and between these groupings, categorization of participants in any particular negotiation depends upon the subjective views of the categorizer. Objectively, the relationship between participants should not be a linear progression toward hostility, or from it, but a progression from and toward centers of friendliness or attraction. Moreover, in the East-West polarization the alliances and their procedures have differed, which introduces a complication that may require some distinctions among centers of friendliness. It appears that Stalin's system required Soviet approval of, for example, a Bulgarian-Rumanian negotiation,[4] a comparable procedure not being required in the Western bloc. Given the potential uniqueness of alliances, it is conceivable that, whether or not the alliance condition is included in a friendship-hostility scale, a separate category based upon differing internal processes of alliances could be usefully added.

Five types of objectives of negotiations are visualized: (1) extension of an existing arrangement, including replacement of international officials; (2) normalization, as in the ending of violence; (3) redistribution, in which one party's loss is another's gain and involving an offensive, threatening side and a defensive side; (4) innovation; (5) side effects, including maintaining contact, deterrence, obtaining intelligence, deception, propaganda, and impact on third states.

Agreement is not essential. Rather, possible outcomes are of three types: (1) agreement; (2) no-agreement; (3) further negotiations.[5]

[3] Heinrich Triepel, *Völkerrecht und Landesrecht* (Leipzig 1899), 35-63, 66-103. See also, on the distinction between *traité-loi* and *traité-contrat*, Louis Delbez, *Les principes généraux du droit international public—Droit de la paix—Droit préventif de la guerre—Droit de la guerre* (3rd ed., Paris 1964), 46-47.

[4] Milovan Djilas, *Conversations with Stalin*, trans. by Michael B. Petrovich (New York 1962), 178-80. See also Zbigniew Brzezinski, *The Soviet Bloc: Unity and Conflict* (rev. ed., Cambridge, Mass., 1961), 104-24, 395-400, 469-71.

[5] On the adjustment of problem-solving mechanisms to differing rates of change of variables, a matter of consequence to the issue of whether or not to prolong negotiations, see William H. Starbuck, *The Aspiration Mechanism*, Institute for Quantitative Research in Economics and Management, Herman C. Krannert School of In-

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Analysis of proposals and their uses and of other tactics is made with reference to the continuing threefold choice, the main objective being to link the negotiating process with outcomes.

It should be clear that Iklé's focus brings to light many features of treaty-making that are not to be found in lawyers' studies. Studies of the law of treaties and those of the law of diplomacy usually provide only fleeting glimpses of the dynamics of the treaty-making process. Treatises such as J. Mervyn Jones's *Full Powers and Ratification* and Hans Blix's *Treaty-Making Process* are essentially norm-oriented rather than process-oriented—that is, they concentrate on the requirements for legal validity of the process and its outcome. These are far from irrelevant. For example, the legal powers of a negotiator (as a matter of municipal law as well as of international law), together with what he is instructed on political grounds to do, affect the negotiation process, the tactics of other parties, and the outcome. As Schelling observes, "the power of a negotiator often rests on a manifest inability to make concessions and to meet demands,"[6] a point echoed by Iklé (pp. 124-25). But it is in the focus upon the negotiating process and its politics and tactics, not upon constitutional and statutory requirements and/or the requirements of international law, that one begins to find reasons why legal prescriptions, as well as nonlegal formalities, are what they happen to be.

II

Study of negotiation is a study of a process that can occur in various settings, some of which may be approximated in the laboratory. Simulation of at least the smaller conference amounts to reproduction of a small group situation. But it is also evident that many negotiations employ mechanisms structurally different from small groups. For example, negotiations conducted by foreign ministers through ambassadors place the small groups, i.e., cabinets, at geographically separate locations. In laboratory experimentation it may not be feasible, economically or otherwise, to produce a design that reduces to a minimum questions concerning structural comparability, with the consequence that laboratory results have been highly tentative. Even so, it is not appropriate to dismiss as inconsequential a laboratory finding that tends to corroborate a perceptive analysis of real-world nego-

dustrial Administration, Purdue University, Institute Paper No. 50 (Lafayette, Ind., June, 1963).

[6] Thomas C. Schelling, *The Strategy of Conflict* (Cambridge, Mass., 1960), 19.

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tiations, particularly so when both the laboratory and the historical data refute a myth.

While discussing Western aversion to making predictably unacceptable proposals and to employing threats, Iklé observes that a threat need only be credible to the opponent; it need not be agreeable to oneself or satisfy all of one's own commitments. Guaranteeing to an opponent that one will not employ force, and then to do so, to switch policies, is seen as inviting intransigeance or possibly even rising demands by an opponent who, like the Soviet Union, maintains a constantly threatening position.

Some recent experiments in interpersonal bargaining have produced data corroborating Iklé's refutation of certain myths concerning the impact of one's own behavior on opponents. Contrary to the results of the Deutsch-Krauss experiments,[7] Meeker, Shure, and Moore found the following: (1) When both players had threat capacity, not escalation (as in Deutsch-Krauss) but significantly higher joint payoff resulted. (2) Significantly more pairs making extensive early use of threat later reached cooperative agreement. (3) Nonexistence, non-use, or restrained or delayed use of threat did not prevent escalation. (4) Most users of first threat had initially cooperative intent and were significantly more successful in reaching cooperative agreement than those not initially indicating cooperative intent. (5) Early hostile intention did not necessarily prevent subsequent cooperation. (6) Increase or decrease of subjective hostility bore no consistent relation to success or failure in achieving agreement.[8] A subsequent experiment produced, among other findings, data to the effect that neither information that a pacifist's tactics are a real guarantee against his retaliating nor belief that the pacifist's failure to retaliate is a matter of principle rather than of fear or weakness dissuaded dominators. Instead, when such information was imparted during the game, ninety-four percent of the dominators chose the maximum payoff as against the thirty-seven percent who chose it from the start.[9]

[7] Morton Deutsch and Robert M. Krauss, "The Effects of Threat upon Interpersonal Bargaining," *Journal of Abnormal and Social Psychology*, LXI (September 1960), 181-89; and "Studies of Interpersonal Bargaining," *Journal of Conflict Resolution*, VI (March 1962), 52-76.

[8] Robert J. Meeker, Gerald H. Shure, and William H. Moore, Jr., "Real-Time Computer Studies of Bargaining Behavior: The Effects of Threat upon Bargaining," *American Federation of Information Processing Societies Conference Proceedings, 1964 Spring Joint Computer Conference*, XXV, 115-23.

[9] Shure and Meeker, "The Effectiveness of Pacifist Strategies in Bargaining Games," *Journal of Conflict Resolution*, IX (March 1965), 106-17. A recently proposed model of the bargaining process includes the propositions that a very high rate of learning during bargaining and/or a low rate of time cost can lead one bargainer to raise his

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This apparent experimental confirmation of Iklé's position on the non-use of threat as a bargaining tool is impressive, and it raises the same question as does the book—does personality overly dominate both analyses? Although Iklé undertakes to relate negotiations and negotiators to governmental organizations and to broader national settings and processes, much of the exposition does not link personalities to cultures and to organizational roles.[10] Not closely associating negotiations and cultures, *How Nations Negotiate* generally fails to discern both legal traditions, together with their influence upon the negotiating process, and the concern about legal effects of outcomes that must enter into negotiators' calculations. For the outcomes can be agreements that, if they are to bind other parties, must also bind a negotiator's own state and often also private citizens and associations.

III

Too narrow a view of what can be embraced in the concept of law may well lead to misleading conclusions about interpretations and intentions of each party. For example, warnings to the West to avoid ambiguous agreements or "agreements in principle" with the Communists introduce Iklé's identification of two risks inherent in such agreements: (1) The parties may conclude an agreement in principle "unaware that their interpretations of the implicit parts of the bargain are in conflict"; and (2) one party may deliberately violate what it knows the second party thought was mutually understood. Concerning the first risk, Iklé says: "In the case of unintentional misunderstanding, one or the other side will feel cheated when it comes to carry out the agreement later on. The remedy against this is greater specificity . . ." (p. 9).

Why feel cheated? One reason, suggested by the Blake-Mouton experiments, may be a marked difference between the understanding of one's own solution to a problem and that of a competitive group, the latter solution not being fully understood even by individuals who think they understand it.[11] To the extent that an agreement is a com-

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demands (John C. Cross, "A Theory of the Bargaining Process," *The American Economic Review*, LV [March 1965], 67-94).

[10] Intraorganizational aspects of bargaining are developed in Richard E. Walton and Robert B. McKersie, *A Behavioral Theory of Labor Negotiations* (New York 1965), chap. 9 and, with extension to international relations, chap. 11.

[11] Robert R. Blake and Jane S. Mouton, "Comprehension of Own and Outgroup Positions under Intergroup Competition," *Journal of Conflict Resolution*, V (September 1961), 304-9.

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promise, part of the competitor's solution, even if not his optimal solution, will be included. So is part of one's own solution. Hence, the proposition may be put forward that the inclusion of part of one's own solution or proposals in a compromise may generate more optimistic expectations than are warranted. Thus, it is possible to explain in terms of frustrated expectations the feeling of having been cheated.

But if feeling cheated is given a generalized explanation in terms of frustrated expectations, a circle of tautology (frustration = feeling cheated = frustration) can be established. To avoid tautology, it might be better to treat frustration as having an external relation to the treaty partner's acts and to regard expectations as prior, and feeling cheated as subsequent, internalizations. In that case, a temporal sequence (expectation → frustration → feeling cheated) can be identified either on the plane of individual policy-makers or on that of a small group of collegial policy-makers, perhaps including advisory staff. Depending upon the spread of pertinent, but not necessarily accurate, communication, the sequence could extend to the nation.

How can one identify pertinent expectations? To indicate one route, let us assume that an observer's training had taught him a measure of law and of the rationale behind the law. Let us further assume that his training in law had led him to contracts and to the doctrine on which laws of contract rest. These doctrines would include the will theory associated with the modern Roman law and the reliance theory of the common law,[12] both of which have relatively recently been brought to bear by international tribunals to determine the treaty obligations of states.[13] Roughly, the reliance theory rests obligation on the ground that the other party has relied upon and perhaps taken risks in expectation of performance of what was stipulated. The will theory rests obligation on the parties' par-

[12] On the will theory, see Ernest Nys, "The Development and Formulation of International Law," *The American Journal of International Law*, VI (January 1912), 286-87. On the reliance theory, see John William Salmond, *Essays in Jurisprudence and Legal History* (London 1891), 196, 199-202. For a comparison of the two theories, see A. V. Lundstedt, *Superstition or Rationality in Action for Peace?* (London 1925), 96-104.

[13] For an advisory opinion of the Permanent Court of International Justice that rests in part upon the reliance theory, see *Treatment of Polish Nationals in Danzig* (1932), Series A/B, No. 44, p. 24. For resort to the will theory, see the remarks of the Franco-Italian Conciliation Commission in *Interpretation of Article 79, paragraph 6(c), of the Treaty of Peace*, Decision No. 136 (1952), *Recueil des décisions de la Commission de Conciliation Franco-Italienne instituée en exécution de l'article 83 du Traité de Paris avec l'Italie*, IV (Rome no date), 82 at 91-92, and remarks of the Commission and of the French member in *Società Mineraria et Metallurgica di Pertusola*, Decision No. 95 (1951), *ibid.*, III, 67 at 87, 93-94.

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ticular wills and can lead to interpretation based upon what is thought to have been willed rather than on what has been stipulated.

An instance of conflict between the reliance and the will theories of contract may be found in the well-documented negotiations of Castlereagh and of Canning. In his negotiations with continental statesmen, Castlereagh, particularly in the British Memoranda of October 12 and November 4, 1814, on the Polish question,[14] expressed views on the nature of treaties and treaty obligations that conflicted with those of continental statesmen. In essence, Castlereagh held that the principle of reliance upon stipulations is essential to remove treaties from the mercy of statesmen's whims and to avoid allegations of unanticipated obligations. His avoidance of the ambiguous Holy Alliance both at Vienna and at Aix-la-Chapelle, as well as Canning's later opposition to the Holy Alliance, has its root in the English concept of contract.[15]

Metternich commented upon the differences between Castlereagh's concept of treaties as being much like civil contracts and the contrasting concepts of continental diplomats and rulers who regarded the spirit rather than the stipulations as paramount. Canning conceded that his view of treaties as civil contracts was not shared by continental statesmen.[16] In light of the Roman law foundation of "the public law of Europe," what evidently occurred was mutual reinforcement of Anglo-Saxon legal doctrine and British interest. If national legal doctrine is a window through which treaties may be perceived—with intensity of legalistic perception bearing some undefined relation to training of negotiators and foreign ministers and to organizational provision for obtaining legal advice—and if interest pursued is not objective but perceived interest, then negotiations could be explained in terms of mutually reinforcing perceptions.

IV

A set of rules of accommodation, said to be valid among friendly countries, is offered by Iklé, not invariably with approval. They are

[14] C. K. Webster, ed., *British Diplomacy, 1813-1815: Select Documents dealing with the Reconstruction of Europe* (London 1921), 210, 226. Cf. the Russian Memoranda of October 30 and November 21, 1814, *ibid.*, 224, 243.

[15] Castlereagh to Liverpool, November 2, 1818, in Webster, *The Foreign Policy of Castlereagh, 1815-1822* (London 1925), 157, 158. See also in this volume, Cabinet Memorandum of May 5, 1820, 238-39; Lieven to Nesselrode, October 25, 1820, 282-83; Esterházy to Metternich, January 10, 1821, Appendix, 556; circular to British ambassadors, January 19, 1821, 321-23.

[16] Harold Temperley, *The Foreign Policy of Canning, 1822-1827: England, the Neo-Holy Alliance, and the New World* (London 1925), 4-5, 466.

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classified as "hard rules" and "soft rules." Hard rules, the violation of which would almost invariably terminate friendly relationships at least temporarily, are the following:

(1) Avoid unambiguous lies.
(2) Keep explicit promises.
(3) Never use invective.
(4) Avoid explicit threats.
(5) In the execution of details, never blatantly violate agreements in principle.
(6) Never later deliberately misconstrue mutual understandings.

Soft rules, that is, rules that cannot be violated repeatedly without eroding friendly relationships, are:

(1) Do not exploit publicly an opponent's domestic difficulties.
(2) Honor debts of gratitude (i.e., at an appropriate time, return acknowledged concessions).
(3) Never impugn motives.
(4) Keep discourse reasonably relevant.

To these rules are added the following, without categorization as hard or soft:

(1) Never kill (or presumably, injure) a negotiator.
(2) Avoid disputes about status.
(3) Adhere to agreed agenda.
(4) Honor partial agreements.
(5) Maintain flexibility.
(6) Negotiate in good faith.

Adherence to rules of accommodation is treated as facilitating negotiation by increasing efficiency through a reduction of hostility. In the sense that they are to be employed as circumstances at the negotiating table require, these rules of accommodation are akin to the rules of thumb that Baumol and Quandt found to be a rather efficient piece of equipment for optimal decision-making.[17]

Except in one specified situation, maxims of accommodation are judged to have inconsequential influence upon negotiations between hostile states or blocs. Iklé sets adherence to rules upon the dominating friendship-hostility continuum—"the less the hostility, . . . the wider the scope of negotiating conduct that the rules can affect and the more

[17] W. J. Baumol and R. E. Quandt, "Rules of Thumb and Optimally Imperfect Decisions," *The American Economic Review*, LIV (March 1964), 23-46, a report on generation of rules of thumb through simple algebraic functions and simulation with plausible expectation of fair approximations to true maxims.

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infrequent their violation" (p. 88). Iklé sees a change from hostility to friendship as generally producing a change in negotiating style toward greater adherence to rules. What Iklé proposes as a relationship between the friendship-hostility continuum and the effectiveness of rules of accommodation amounts to application of a platitude concerning international law and, more broadly, international morality. In other words, he says that a state can and does behave toward an enemy in ways that are unthinkable in dealing with friends. An investigator might look further, as was done in a recent experiment in which Crow and Raser found differences in negotiating and decision styles of a cultural nature when they reproduced in Mexico an internation simulation previously conducted in the United States.[18] Such a finding should tend to limit reliance on a friendship-hostility explanation of negotiating styles and to invite explanation that takes account of other variables.

V

To what are negotiators themselves bound during the course of negotiations and to what that they have promised or explained are their countries subsequently bound? These two questions raised by Iklé take the study of negotiations well into the realm of law, for no complete answer to either can be given without reference to legal precepts. In very general terms the answer to both questions would seem to be that neither negotiator nor state is bound to anything prior to the conclusion of a final agreement and its coming into force.

In regard to the first question, Iklé finds that friendly negotiators are expected to honor partial agreements. Following this nonlegal rule of accommodation avoids reopening negotiation on articles already agreed on. Of course, as Iklé perceptively remarks, it may be tactically wise occasionally to withdraw from partial agreements in order to acquire a reputation for easily stiffening their terms, and thus, perhaps, rendering an opponent more ready to accept the terms.

The first question is transferred from negotiating etiquette to law when the issue of binding negotiators is extended to the state. Is the state permitted to withdraw an offer after the other party has accepted? Iklé's lone example is a Western offer, a so-called Soviet acceptance but really a counteroffer with new provisions, and a Western reservation of previous positions characterized as withdrawal of an accepted

[18] Wayman J. Crow and John R. Raser, *A Cross-Cultural Simulation Study,* A Report to Project Michelson, U.S. Naval Ordnance Test Station, China Lake, California (La Jolla, Calif., Western Behavioral Sciences Institute, November 20, 1964).

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offer. The pertinent legal analogy would appear to be the municipal-law rule of offer and acceptance, as adapted to intergovernmental exchanges of notes. There was no withdrawal of an accepted offer. Moreover, negotiations were still in progress. When there is a completed offer and acceptance, withdrawal is more than "highly improper," as characterized by Iklé with the comment that at least in Western diplomacy withdrawal "is viewed not just as a breach of promise but also as a retrogression retarding the negotiation process" (p. 101). Iklé's phrasing poses the question of whether a breach of a norm or a retardation of negotiations is the more serious wrong—a question susceptible of approach through using a value scale that accords priority either to norms or to facility and speed of negotiation or, more profoundly, through relating breach of norms and retardation of negotiations to international systems in terms of effects. Lack of links to the system rests the question of priority on the investigator's orientation. In his orientation may be found not a clue to the distinction between the approach of the lawyer and that of, for instance, the political scientist but the distinction between the norm-oriented and the process-oriented researcher, whatever his discipline.

The problem of state obligation arises more acutely in the question of whether or not a state can annul a completed agreement before it becomes effective, or just before it is signed, as occurred when the United States during the Berlin crisis of 1961 refused to sign an initialed agreement providing for reciprocal air services. With rare exceptions, initialing is not signature but only a stage prior to government approval of draft texts and authorization to sign; the same is true for signature *ad referendum*.[19] American failure to ratify the Versailles Treaty was dramatic demonstration that no obligation exists prior to entry into force of a completed agreement.

Concerning the second question, whether subsequent to entry into force a state is bound by what negotiators have promised or explained during negotiations, Iklé says: "The words a negotiator uses in praising his proposal may be viewed as more or less binding amplifications which spell out further details of his offer. Such amplifications are binding for the same reason that an agreement itself is binding, though to a lesser extent. Should a party succeed in having its proposal accepted but later violate the interpretations and amplifications it has given, it will not be believed in the future when it tries to 'sell' another proposal" (p. 197).

An explanatory footnote, containing the references to Brierly and to Schwarzenberger, reads as follows: "Decisions of the International

[19] Hans Blix, *Treaty-Making Power* (London and New York 1960), 71-73.

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Court support the notion that explanations given during negotiations are binding. The Court has held, however, that the negotiating history may be used for treaty interpretation only if the treaty itself is not clear and if all parties before the Court participated in the negotiations."

Early in the book (p. 7) it is said that "sanctions supported by higher authority cannot be invoked"—the rank of the World Court in this apparent mix of authority, power, and hierarchical organization is not indicated. Agreements are then declared to bind for the following reasons: (1) They are "attractive *on balance*"; (2) governments have an interest in keeping agreements "as a matter of principle" lest violation (a) make it more difficult to reach other agreements, (b) cost the good will of friends, (c) risk reprisal by hostile countries, and (d) lead victims to increase penalties to provide deterrents against violations by other states; and (3) because in democratic countries complex decision processes interpose institutional obstacles to violation. On the basis of these reasons it is possible to understand a resort to self-help in support of *pacta sunt servanda*—that is, a purely expediential resort can be understood. Resort to self-help on moral grounds appears to be excluded. But what is not explained by these reasons, since "sanctions supported by higher authority cannot be invoked," is the point of a state's appeal to the International Court of Justice.

An agreement in force must be in the realm of law if a court can pass upon the obligation of a state's interpretations and amplifications made during negotiation. But it goes much too far to assert, without relating the assertion to mutual understanding, that the interpretations and amplifications made by one party as an act of salesmanship are binding; indeed, this assertion is not supported by the limitations mentioned in the quoted footnote. Although at times employed to support conclusions reached on other grounds, preparatory materials are preferably used only if they illuminate a text and, to include a restriction not mentioned in the footnote quoted, if they indicate the intentions of the parties—both or all disputing parties, not just the salesman.[20] There is a difference between understandings and arguments—subtle, perhaps, but important to the law and to the mature diplomat anxious to avoid inadvertent obligations.

[20] *Jurisdiction of the European Commission of the Danube*, Permanent Court of International Justice (1927), Series B, No. 14, p. 28; *Lighthouse Case* (1934), Series A/B, No. 62, pp. 13, 16; *Interpretation of the 1919 Convention Concerning Employment of Women During the Night* (1932), Series A/B, No. 50, pp. 372-81; *Georges Pinson Case*, Franco-Mexican Claims Commission (1928), *Annual Digest of Public International Law Cases, 1927-1928*, No. 292. See also Lord McNair, *The Law of Treaties, 1961* (Oxford 1961), 411-23.

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VI

What has just been said no more delves into the complexities of the legal dimension of negotiations than what was said earlier probes deeply into the problem of the validity of laboratory data as explanations of real-world phenomena. It only suggests the need for comparison, evaluation, and integration of the data obtained through different approaches and different choices of focus. If the volume of studies from the several approaches is too great for a single investigator to handle, then a properly guided team is needed. A fabled team of blind men, lacking a guide, attempted to analyze the elephant. The elephant was neither what each blind man individually ascertained nor the sum of their findings. Neither the individual findings nor the sum was irrelevant; they were only incomplete, unintegrated, and, as a consequence, misleading. As presented by the fabulist, they did not consolidate the ground for renewed investigation.

Iklé's work, one of the prompters of the random observations made in preceding sections, has in a sense been a whipping boy. One could say much more than does this review and in the process develop a comprehensive framework for an integrated approach to the study of international negotiations. But the place for that is in a context that does not focus upon a single study and is thus free from the danger that suggestion will be converted into vilification.

This review article has suggested the need to examine cultural, including legal, backgrounds, to identify the differing structures and normative frameworks in which negotiations are conducted, to reconsider the necessity of conflict as a prerequisite for negotiations, to distinguish personality from other influences upon negotiations, to relate attitudes to traditions, to identify expectations, intentions, and perceptions, and to give attention to the communications function of elements other than direct proposal, argument, warning, threat, and commitment. To accomplish these stated objectives, it is essential to use understandingly the fruits of legal approaches, laboratory and other social science findings, anecdotes, and evidence from studies of negotiations on levels other than the intergovernmental. Iklé's contribution is a definite step in this direction, perhaps as big a step as is presently possible in our incapacity to be expert in all relevant disciplines and to incorporate all relevant data. Perhaps the greatest contribution of *How Nations Negotiate* is that, carefully read, it suggests much that can be built on foundations presently laid.

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TOTALITARIANISM IN RETREAT

The Example of the DDR

By KURT L. SHELL

Arnulf Baring, *Der 17. Juni 1953*, Koeln-Berlin, Kiepenheuer & Witsch, 1965, 185 pp. DM 9.80.

Robert Havemann, *Dialektik ohne Dogma? Naturwissenschaft und Weltanschauung*, Reinbeck bei Hamburg, rororo (Rowohlt), 1964, 168 pp. DM 2.20.

Peter Christian Ludz, ed., *Studien und Materialien zur Soziologie der DDR* (Koelner Zeitschrift fuer Soziologie und Sozialpsychologie, Sonderheft 8), Koeln und Opladen, Westdeutscher Verlag, 1964, 540 pp. DM 29.50.

Ernst Richert, *Macht ohne Mandat: Der Staatsapparat in der Sowjetischen Besatzungszone Deutschlands* (2. erweiterte Auflage, Band 11 der Schriftenreihe des Instituts fuer Politische Wissenschaft an der Freien Universitaet Berlin), Koeln und Opladen, Westdeutscher Verlag, 1963, xlii, 305 pp. DM 29.

ON November 1, 1963, the Ordinary Professor for Physical Chemistry at the Humboldt University in East Berlin, Robert Havemann, included the following remarks in his lecture on conceptual thinking: "The vital source of our cultural development . . . is the many-sided, increasingly comprehensive information of all members of society concerning all knowledge, all problems and questions of our time. Every impediment to and limitation of information paralyzes the activity of the members of society and thereby the development of social conditions, and only puts a brake on development. At all times reactionary regimes have attempted to keep the people in ignorance. . . . A government can only succeed in its so very important tasks if it can rely on the active and energetic cooperation of all members of society. . . . Whoever is afraid of the consequences of general unlimited information and, on account of this fear, impedes it, creates thereby precisely the conditions for fateful development" (p. 52).[1]

These words are deeply significant for three reasons: Professor Havemann had been a member of the German Communist Party since 1933 and had—until 1956—followed the Party line as dictated by Moscow; he was permitted to continue his lectures in the same tone for the rest of the winter semester 1963-64 in a large lecture hall packed with more than a thousand students; and the lectures were held two years after the closing of escape routes by means of the Berlin

[1] This translation as well as all others here is by the author of this review article.

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Wall—an event that appeared to have rendered the East German population totally subject to the coercive and manipulative power of the Ulbricht regime.

Though the presence of Ulbricht as one of the last Stalinists remaining in power in Eastern Europe tends to obscure the phenomenon, it has become evident in the years that have elapsed since the erection of the Wall that the German Democratic Republic (DDR) has not escaped the wave of liberalization that in varying form and degree has swept over the Communist-controlled nations behind what used to be called "the Iron Curtain." If this process has taken place without the replacement of Ulbricht and has gone less far than in other East-bloc nations, the reason is to be found in the particular problems of the Communist regime in East Germany. The very weakness and unpopularity of a regime that lacks even a national base for its claim to rule require tighter control both physically and ideologically.

Further, in other nations of Eastern Europe a feasible alternative to Communist government presently does not seem to exist—as the fate of the Hungarian revolution showed—and therefore the people of these countries, by and large, accept relaxation of control in a spirit of resigned adjustment. The East Germans, however, do have an alternative—reunification—ceaselessly before their eyes, a fact which renders resignation and habituation much more difficult. The claim of East Germany's Communist leadership to represent an ideology totally incompatible with that governing Western systems must, in turn, be maintained with particular stridency and comprehensiveness if "coexistence" is not to put in question the very justification for the existence of a second and rigidly separated German state. Thus while Yugoslavia, Poland, and Hungary can afford to permit wide-ranging discussion concerning the ideological fundamentals of their "public truth" Marxism, and even to turn the Leninist principle of "he who is not for us is against us" around, the DDR appears forced by the artificiality of its system to maintain tight control over society. Given the alternative—the natural alternative—of union with a non-Communist West Germany, anyone who is not for the DDR is necessarily presumed to be opposed to its existence. Thus in that political system in which the distance between the Marxist fiction and social reality is greatest, the willingness on the part of the leadership to abandon the fiction in theory or practice is smallest.

If these remarks seem in contradiction to the report of Professor Havemann's lectures, to the fact that he was not immediately silenced and punished, and to the fact that large numbers of students were not

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terrorized into nonattendance, this contradiction is part of DDR-reality and lies at the core of the question about the present nature of the regime and the direction in which it is heading. The liberality of the German Socialist Unity Party (SED), it must be noted, had its definite limits: Havemann ultimately lost his university chair and was expelled from the Party.[2] A discussion of his theses—the theses of a Communist confident in the victory of communism in the free marketplace of ideas—was not permitted. The case of Havemann is significant not only because the publication of his lectures by a West German publishing house has provided us with a fascinating insight into the searching of a Communist-trained mind ripped from its moorings by the events of the last decade, but also because his case indicates the wavering line which the Ulbricht regime is attempting to draw dividing permissible discussion from "ideological coexistence," which is unacceptable. For German analysts the Havemann case has given added impetus to the debate that, for obvious reasons, also profoundly exercises the German public, both academic and nonacademic. This debate concerns the nature and dynamic of the East German Communist system—in particular, whether it can best and most simply be described (and dismissed) as "totalitarian" or whether a different conceptual framework is required to meet the changing East German reality.

The careful (if sometimes tedious) analysis of Ernst Richert in *Macht ohne Mandat* and the far-ranging contributions to the volume edited by Peter Christian Ludz raise the central questions concerning the dynamic of totalitarian systems in general, and that of the DDR in particular. Though Richert focuses on the state apparatus of the DDR and thus pays great—perhaps excessive—attention to the institutional devices by which power has been channeled by the Ulbricht regime, the concern with the actual functioning of the political system remains primary. The constitutional facade is recognized for what it is and its detailed analysis serves to throw light on the tensions and struggles that have characterized the development of the DDR. And it is the tension between "ideologues" and "experts" that seems to Richert of decisive importance for the future development of the system. Though he does not overlook the continued use of repression as a means of safeguarding the monopoly of political control by the SED, and though he repeatedly emphasizes the tremendous obstacles facing the relatively small Party cadres in directing the activities of a

[2] He remained, however, head of the research institute and neither he nor his family were physically harmed.

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basically hostile society, he is impressed by the fact that the system not only has functioned but has even shown considerable signs of consolidation. Thus his starting point is the assumption of the continued existence and even stabilization of the DDR as a separate political structure—an assumption that puts him in opposition to the official West German foreign policy line. In the tension between the two goals that have been primary to the DDR elite—"total transformation of society according to bolshevik norms and the related need to develop an effective state and, above all, economy" (p. 281)—he perceives the key to the dynamic of the East German system, as well as the major restraint on the totalitarian control of the Party over East German society. He leaves little doubt that, in his own view, the functional needs of the economic-scientific system are winning out over the ideological aspirations of the Party. But he gives due emphasis to the continued claim of the political (Party) elite to control social development and to create a "new man" in a transformed society. As previously indicated, the DDR leadership can afford less than can other Communist elites to abandon the ideological legitimation of its monopolistic rule. And this makes much more remote the kind of "live and let live" arrangement apparently reached in some East-bloc countries between ideological demands and social autonomy.

There exists fundamental theoretical agreement between the position taken by Richert and that propounded explicitly by Ludz, in the introduction to the volume he edited, and implied by several contributors to it. Ludz subjects the concept of totalitarianism, as it had been developed in the forties and fifties by writers like Hannah Arendt, Carl J. Friedrich, and Zbigniew Brzezinski, to detailed criticism, the heart of which lies in his assertion that "society was perceived as subject to total political control (*Herrschaft*) and its own inherent dynamic was viewed as irrelevant" (pp. 13-14). Ludz argues that concentration on the structure of "command, coercion, and terror" and the "permanent revolution from above," characteristic of the periods of war communism and Stalinism, led to a "premature proclamation of a general descriptive theory of a new political system" (p. 15). He does not question that the "totalitarian Party's" continued hold on the monopoly of political power represents a rigid boundary that limits the working-out of autonomous social processes. But like Richert he is more concerned with the dialectic between Party control and the requirements of a modern economic and social system. Social conflicts continue even in "totalitarian" systems and by their existence "they influence . . . the directing and controlling apparatus of Party

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and State" (p. 21). It is this reaction, the "feedback mechanism" of society, on the political structure that is, therefore, posed as the central question for the contributors to the volume on the sociology of the DDR. And it is the emphasis on the "autonomy" of social processes that appears to lead Ludz in turn to conclusions that I would consider "premature."

It is obviously more than a mere matter of definition when Ludz urges the desirability of substituting for the—to him—increasingly inadequate and misleading concept of totalitarianism that of "authoritarian control." At issue is his assumption that what at first appears merely as the weakness of the totalitarian party, or as its inability to transform society in the light of its ideological norm, is leading (or has already led) to the Party's acceptance of limitation, to its adjustment to social norms and its abdication of the claim to comprehensive direction of the social structure and processes. Unlike Richert, who concludes that the resolution of the conflict is still distant and its nature yet open, Ludz at times argues as if the issue were settled and the process of transforming a totalitarian system into an authoritarian one in the DDR were almost concluded,[3] and he implies that the Party (SED) has already assumed a new behavior pattern characterized by an "authoritarian-pragmatic" approach (p. 52). The crucial distinction to be made concerns the dynamics of the process and the question of its reversibility. There is little question that functional requirements of an industrial system set definite limits to the arbitrariness of terroristic rule. Yet there are historical examples—the Great Purge and, more recently, Ulbricht's forced total collectivization of East German agriculture, which he accomplished apparently without the approval and probably against the wishes of the Soviet leadership (Richert, pp. 56ff., 60ff.)—that show that the leadership may refuse to give priority to these requirements, may consciously sacrifice "efficiency" to ideological considerations, and may even take grave risks by unbalancing a relatively stable equilibrium to promote the radical transformation of society.

What the analysis by Richert, as well as several of the contributions to the volume edited by Ludz, clearly shows is that the means by which the SED leadership is attempting to achieve its goal have significantly changed. Terror and repression have largely been replaced by pressure, persuasion, and incentives. But there is no indication that the

[3] "A bolshevik system would tend under conditions of industrial society toward an authoritarian rather than a totalitarian structure" (p. 21). "Authoritarian" is defined as "mutual adjustment of Party and society" (p. 52, n. 30).

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ultimate goals have been altered or that the ideological aspiration—that of totally transforming the existing society into one free of antagonisms in which collective goals would be spontaneously and cooperatively pursued—has been abandoned (Richert, chap. 9, 10).[4] There is no concession to a "pluralistic" view of society, no admission that conflicting "private wills" are legitimate and may be tolerated independently of the "general will" as defined by the Party. Family, school, university, trade unions remain what they were in Leninist theory and Stalinist practice, transmission belts for the political socialization of individuals into the collectivist society as conceived by the Party elite. Thus Dietrich Storbeck in his analysis of the family in the DDR (in Ludz, pp. 86-113) underlines the continued focus on the family's function as "education aimed at socialist man" and the implementation of this demand by means of surveillance, pressure, and legal institutionalization. And even the more extreme visions aiming at novel forms of collective life centering on apartment-machines with centralized services have not been abandoned (p. 91).

Similarly, Hartmut Zimmermann, dealing with the functions of trade union organization in the DDR (in Ludz, pp. 115-44), finds it necessary to fall back on the Leninist conception of the role of the unions as the one that is still officially accepted and appropriately institutionalized on the precise Soviet pattern. Like the "plant production councils" instituted in the wake of the "Polish October," and described by Rudolph Becker in the Ludz volume (pp. 169-86), unions are viewed solely as agencies intended to further the goals of the political leadership. Initiative is permitted and encouraged only when it serves to increase the efficiency of the enterprise in fulfillment of the production plans.[5] The trend, in fact, has not been to allow to these councils greater autonomy—such as a move in the direction of genuine "workers' democracy" on the Yugoslav model—but rather the opposite: tighter Party control to balance the decentralizing tendencies of the "New Economic Policy" which the SED leadership has initiated (Becker, in Ludz, pp. 183-84). Zimmermann notes an identical devel-

[4] In her biography of Ulbricht, Carola Stern strengthens the belief that even for this outstanding example of a Party bureaucrat the ideological convictions gained in his youth—and now frozen into dogma—remain operative (*Ulbricht: A Political Biography* [New York 1965], 15-16).

[5] "The most important task of the production councils is seen in their cooperation in the development and execution of plans for the plant and in the control of their fulfillment. . . . The intended cooperation in the development of the plans is not related—in distinction, e.g., to the Yugoslav system—to the broad outline of the plan but to the discovery of efficiency reserves within the enterprise and their consideration in the plan" (Becker, in Ludz, pp. 171-72).

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opment: As the economic policy has increasingly emphasized "material interest"—i.e., wage and profit incentives—for the purpose of stimulating production, the Party has tried to counter the "dangerous" implications by renewed stress on the "moral-ideological element" (in Ludz, p. 134). There is thus little evidence of ideological adjustment by the Party to social norms, but rather a continued struggle, albeit carried on with different weapons and in a spirit of (forced) patience. Given the overriding importance to the DDR of enhancing its economic viability as an underpinning of its competitive efforts vis-à-vis the Federal Republic, the industrial-economic complex has become the focus of East German life. This economic aspect requires, at least temporarily, the subordination of the "cultural-pedagogical" aspect whenever the two are in conflict, as Richert points out (*passim*, esp. p. 282). The flexibility of Marxist doctrine has permitted its identification with the DDR's commitment to its economic goals, particularly since no significant sectors of private economic activity remain to challenge the fundamental ideological principle of collective ownership of the means of production.[6]

Since 1958 the SED leadership has emphasized the need to obtain the participation of "the masses" and to decentralize administrative functions in order to enhance the productive effort—measures by no means in contradiction to Marxist theory. However, precisely because East German society, like other industrialized societies, did not develop spontaneously the desired "general will" and, at the same time, did add to the pluralistic features inherent in industrial systems the specific antagonisms characteristic of the DDR, the moves toward social autonomy remained largely sham (Richert, pp. 207-18).[7]

There exist several factors—both separate and interdependent—whose relation to the requirements of a functioning industrial system remains a matter of discussion but which have proved to be significant limitations on the goal of total control over East German society. Though these factors may strike us as obvious, they must be taken into account when the development of the DDR is under discussion. They are in no way exclusive to East Germany, but there perhaps more than elsewhere they affect the internal social dynamics of the system. When

[6] Richert reports that, by 1961, 87.5 percent of all persons gainfully working in the DDR were employed in the "public sector." "Private existence in its economic sense has become irrelevant" (p. 283).

[7] Nomination for "representative" institutions or inclusion in "citizen councils" ("Actives") remain, with some minor exceptions, devices to activate broader strata of the population as "exponents of organizations which, in turn, are subject to a central will" (Richert, p. 217).

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theorists of totalitarianism have perceived ideology as merely an instrument of manipulation they have overlooked or minimized the "strain toward consistency," the need to make the ideological structure credible both to the leaders and to the led. Closely related has been the refusal—clearly derived from the experience of Stalin's and Hitler's one-man dictatorships—to see the Party and Party leadership as themselves part of society and "prisoners of ideology." The theorists postulated not only an omnipotent elite, but also one which (after struggles and dissension) had become homogeneous and entirely Machiavellian in its ability to manipulate forces and ideologies.

It is in this connection that Arnulf Baring's succinct but painstaking reconstruction of the East German uprising of June 17, 1953—an excellent case study in the "sociology of rebellion"—becomes particularly relevant. Baring shows the fallacy of these theoretical assumptions when applied to a concrete situation, at least in an early stage of development. The revolt, originating with segments of the industrial working class, posed a grave ideological problem to a regime that proclaimed itself as the spokesman of that class. It led to immediate—though temporary—concessions to the rebels as well as to deep confusion within the ranks of the leadership echelon. It resulted in the refusal of many Party functionaries to expound the official explanation of the uprising as the work of "Western provocateurs" because this explanation was contrary to widely known facts. The revolt also deepened a fissure that already existed within the far from monolithic Communist elite, a split that almost led to the overthrow of Ulbricht and the destruction of the system (Baring, pp. 115-20). As in Hungary three years later, the regime was saved from breakup not by the totality of Party control—which proved to be a fiction—but through the blunt instrument of repression by Soviet armed force and Soviet intervention on behalf of Ulbricht against his intraparty opponents. The recurrent struggle by Ulbricht against "Titoist" tendencies within the SED, a struggle which always ended (with Moscow's help) in Ulbricht's victory over the advocates of a "German way to socialism,"[8] indicates the difficulty that East German Communists have had in squaring the discredited orthodoxy of the SED line (as well as the fact of German division) with their ideological aspirations.

In East Germany—and this is true for Central and Eastern Europe more than for Russia and China—the Communist regime did not find at its inception a *tabula rasa*, a passive, immobile society which had only its own gravity and immobility to set against the central

[8] See Stern, 157-74.

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power's efforts to uproot it and transform it. The regime found a society in which the process of individuation and structural articulation had far advanced and one which thus strongly resisted coercive atomization. The middle class, the peasantry, and a working class with an old tradition of political consciousness could—as the Nazis had shown—be dominated, "coordinated," or enlisted under certain conditions (although probably only for a limited period of time) to serve the purposes of political leadership. The physical liquidation of large parts of traditional elites and intractable segments of the population, which in the Soviet Union was part of the effort to atomize and restructure society, was far less feasible in the Central and Eastern European nations and became almost unthinkable in the period of de-Stalinization.[9]

If we accept the ideological goal—the achievement of a new social value system based on "metaphysical" foundations—as the element that primarily defines totalitarianism,[10] we must assume that the open revelation of the gross mistakes and brutal crimes committed by the Communist Party and Party leadership dealt a decisive blow to the Party's claim to be history's chosen agent in interpreting and realizing this ideological goal. The SED however has not, so far, shed its *hubris* and abdicated its role as dogmatic exponent of the "public truth." This is made apparent by the contributions by Fritz Kopp and by Elisabeth Loeckenhoff and Wolf-D. Belach to the volume edited by Ludz (pp. 285-325), which deal with the "changing function of ideology." These authors deal entirely with secondary aspects of the crucial issue raised in the introduction: the nature of ideological change under the impact of social and technical exigencies. Furthermore they provide no evidence whatsoever that a fundamental change—involving more than tactical adjustments—has actually taken place. Even in an area where the Party has had to reverse its previous ideological position in order to catch up with scientific developments in the West and in the rest of the Communist bloc—as in the case of cybernetics—it did so (as described by J. Wolfgang Goerlich) by blaming "some representatives of Historical Materialism" for originally failing to see the "materialist" nature of the new discipline and by declaring it forthwith as "*the* Communist science" (in Ludz, pp. 419-41, esp. 423). The development of

[9] Cf. the perceptive article by Alexander J. Groth, "The 'Isms' in Totalitarianism," *American Political Science Review*, LVIII (December 1964), 888-901.

[10] This definition is developed by Professor Martin Drath in his extensive theoretical introduction to *Macht ohne Mandat*. It is largely accepted by Ludz (pp. 18-19) but is criticized there as insufficiently heedful of the changing nature of Communist ideology.

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empirical sociology—described and analyzed with great subtlety and in considerable detail by Ludz (pp. 327-418)—has posed profound theoretical problems for the SED ideologues, and has been acceptable only to the extent that it serves primarily as an "instrument of the Party leadership in the direction and control of society" (p. 328). The increasing use of this instrument does, however, force the Party to admit —in spite of attempts at obfuscation—the distance separating present social behavior from the desired collectivist pattern, and to explore more honestly the reasons for the gap and the resistances to it—resistances which frustrate efforts at change based on facile formulas derived from dogmatized Marxist analysis. Above all the use of empirical sociology makes public the fact that, in spite of the creation of a "classless" society through the collectivization of the means of production, the members of that society are largely oriented to those nonpolitical, material, and individual goals that are apparently characteristic of industrialized mass society.[11] There is justified doubt, as Ludz indicates, whether in the long run empirical methods can be used for attempts at therapy for admitted evils without reacting on the diagnostic process. This doubt raises fundamental questions about the adequacy of a conceptual framework based on a particular interpretation of Marxism and also feeds the pressures pushing for complete openness of communication.[12]

It may sound naive to indulge in rhetoric about the "explosive power of freedom." But indications abound that the attempts of the DDR elite—like those of the other East-bloc nations—to limit free and rational inquiry and communication to those areas where they serve predetermined political and ideological goals are failing; and that there is an apparently irresistible dynamic in the "superstructure" to adjust to the economic-technological base that has burst national boundaries to become worldwide. In this light the effort of the East German Communist leadership to retain its claim of monopolistic

[11] "The picture of a relatively nonpolitical career-oriented youth whose striving is not as decisively affected by 'social' motivations as the authors would like to believe, is unmistakable" (Ludz, pp. 390-94).

[12] Ludz provides several indications of the start of a "comprehensive intellectual reorientation" among some East German sociologists. Though the claim for Historical Materialism as a universal science has not been dropped and the Leninist demand that facts are to be placed in a frame of reference previously fixed by derivation from it is maintained (p. 341), some East German sociologists are questioning the traditional concepts and categories of "Histomat": the category of "social existence" in its reductive economic interpretation is found too confining; the empirical investigation of "regularities" and "behavior patterns" is envisaged; and the categories "class" and "class struggle" are gradually replaced by concepts such as "group" and "authority structure" (pp. 362, 357, 344).

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control over the content of communication seems doomed, particularly when it proves impossible to isolate the population of the DDR from the other East-bloc nations and their West German co-nationals.

As a sign of the times one might quote a letter, written by Professor Havemann, which was addressed to the East Berlin periodical *Forum* but which it refused to print. It was published instead in the West German weekly *Die Zeit*. In this letter Havemann explains "Why I was a Stalinist and became an anti-Stalinist": "The blows of the earthquake (of the Twentieth Party Congress) destroyed the edifice of my faith. What I think today, what I write today, that is reconstruction from the ruins. . . . For many years I believed myself a good Marxist. Because I believed that, I was not one. Today I don't believe it any longer. I am beset by doubt and unrest. I try to think through everything myself. I read whatever I can get that I previously thought not worth reading. . . . Prior to the Twentieth Party Congress whatever was said by the Party leadership represented unquestionable truth to me. It had the right of censorship and repression of all opinions which it did not share. Today I know that the Party leadership does not have the right of censorship. Today I know that every one of us, inside and outside the Party, has the right and the duty to form an independent judgment. . . ."[13]

A system that would grant its citizens this claim to free inquiry and individual judgment could obviously not any longer be defined as "totalitarian." It remains characteristic of the DDR that it continues to repress such utterances as Havemann's while no longer either visiting the author with extreme sanctions or terrorizing him into silence. In spite of tensions and frictions the Ulbricht regime has apparently succeeded in creating on one hand a spirit of resignation by means of coercion (the Wall) and on the other, an acceptance of the system of rewards and channels of upward mobility. In combination, these creations have made the DDR a functioning sociopolitical system which is not likely to break up or collapse from within. In its emphasis on raising productivity, and with it the consumption level of the East German population, the regime has found a common denominator on which the interests of elite and population can meet. To the extent that it considers fulfillment of its economic goals as primary (even though that fulfillment may be bought at the cost of tolerating developments that move society away from the direction and control of the SED), the regime may be satisfied

[13] *Die Zeit* (Canadian edition), May 14, 1965, p. 2.

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with its accomplishment of consolidating the inherently unstable structure of a second German state. But the initial paradox still holds: a second German state which cannot legitimize its separate existence by a comprehensive ideology (and the appropriate institutions) distinct from—and hostile to—that prevailing in the Federal Republic cannot hope to transform the passive virtues of resignation and habituation into active loyalty to the system. Richert points to symptoms that may indicate emergence of a specifically "DDR mentality" not corresponding to traditional nor to present German (West German) nor to bolshevik patterns (p. 289). But he is aware that this process has not advanced far enough to overcome the profound distrust that Communist elite and population feel toward each other. "Leadership and masses are afraid of each other" (p. 259).

It is this fear, and the insecurity which it engenders, as well as its own ideological commitments, that have made it impossible for the DDR leadership to come to terms with the implications of "liberalization." Yet the signs are unmistakable that behind the facade of ideological bravado and the protective cover of the Berlin Wall the Party is in retreat. Whether it will be able to adjust itself (as it seems to have in other East-bloc nations) to a more limited role, and thereby to transform the system into one more accurately corresponding to the "authoritarian," rather than to the "totalitarian," model, or whether it will eventually be forced to abdicate entirely its claim to the monopoly of political power and thereby to open the gate to a competitive and pluralistic—and thus democratic—system, can as yet not be stated.[14] It is unlikely that the DDR will be left free (as the Soviet Union well may be) to work out the balance between competing economic goals and ideological aspirations in an isolated laboratory setting. Its fate will in all likelihood be settled by forces and developments largely outside the control of its leadership. Because of the unique features that characterize the East German Communist state and that add a special twist to the relation between leadership and population, the DDR is probably, after all, not a good example on which to try out the models of totalitarianism and authoritarianism.

[14] The contradictory interpretations of the relation between economic and political factors presently put forth by Western social scientists are clearly and succinctly reviewed by Mancur Olson, Jr., in "Some Social and Political Implications of Economic Development," *World Politics*, XVII (April 1965), 525-54.

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NEW TRENDS IN INTERNATIONAL AFFAIRS

By LAWRENCE S. FINKELSTEIN

Amitai Etzioni, *Winning Without War*, New York, Doubleday and Company, 1964, 271 pp. $4.95.

THE impulse to question the conventional wisdom about world problems has in recent years reflected the perfectly normal dissatisfaction with the way things were going. The temptation has been great to question the rationality of a system preserved against disastrous collapse only, it seemed, by shared knowledge of how disastrous the consequences of collapse would be. (One is reminded of the young lady at the ball who was asked by her escort what it was that held up her strapless evening gown. When she replied that it was "gravity," he queried the principle. "Gravity," he said, "should make it fall down." Her response perhaps describes the contemporary dilemma: "Oh, I don't mean Newton's gravity, but the gravity of my situation if the darned thing doesn't work.") The phenomenon is, perhaps, described as "self-preventing prophecy." The fact that the phenomenon has seemed to work thus far is hardly an adequate response to those who are uneasy about its reliability, as no one can fail to be.

It is hardly surprising that the dominant contemporary situation, nuclear deterrence in a context of great-power conflict, should give rise to restlessness among the community of scholars. In recent years, we have witnessed a phenomenal, and on the whole remarkably responsible and creative, outpouring of scholarly discussion and writing focusing on problems of arms control and disarmament. The inception of this period may be taken as the conference, held at the headquarters of the American Academy of Arts and Sciences in May 1960, which discussed the draft papers prepared for the Fall 1960 issue of *Daedalus*, edited by Donald G. Brennan. A bibliography of writings in the field since that time would number many hundreds of items.

In the interval, two international trends have added further stimulus to scholarly frustration over the international scene. One has been the trend toward diversion of great-power competition from the traditional European cockpit of power conflict toward third areas. It takes many forms. There are three principal ones: first, military

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aid programs by the great powers to their client states and sometimes, in a strange mixture of conflict and cooperation, to the same state; second, great-power intervention in troubled situations, either legitimately in support of the sovereign, or illegitimately in support of insurrection or sedition; and third, competitive development aid programs. The second international trend is the movement toward what has been called *polycentrism*, the loosening of binding ties in the two great alliance systems and the emergence of, if not cogent power, at least partially independent centers of policy.

These two trends both pose threats to peace and imply opportunities for flexible adaptation of policies, programs, and institutions to fit the evolving conditions. If the period between the Berlin crisis of 1948-49 and (to choose an arbitrary date) January 14, 1963, the day of General De Gaulle's notorious press conference, was one of stabilization and generally hardening immobility, the months since then have seen a fairly rapid evolution toward greater fluidity.

In the third world, these trends represent added complications and, as yet, little promise of stabilizing or peace-serving potentiality. There is not much ground for satisfaction—although there is some—over the recent history of great-power competition in the Congo, the Middle East, and Southeast Asia. Nor are there any signs that the Soviet Union, in the context of its bitter ideological dispute with messianic Chinese communism, is prepared to negotiate ground rules to govern great-power competition in these areas which lie outside the zones of vital concern. The dispute in the UN over Article 19 is so important precisely because of its bearing on the question of whether or not the great powers can agree on forms of impartial intervention to help them avoid entanglement with each other. It is difficult to say at this juncture that the omens are especially promising.

As for Europe, the outlook seems mixed. The relative fluidity in alliance relationships may open opportunities for more flexible diplomacy—an opening to the East. This possibility is favored by the apparently growing flexibility of policy and diplomacy in the Federal Republic of Germany and by the growing evidence that several of the Eastern European countries are anxious to strike out—for some distance at least—on their own. On the other hand, this very fluidity calls into question the familiar rules of East-West conduct over European issues. The effects on the prospects for European peace of a German policy perhaps focused with increasing intensity on the goal of German reunification, or the effects of the possible revival of ancient nationalist concerns in Eastern Europe, are now impossible to predict.

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It is at least possible that, on balance, the result may cause us to look back with nostalgia on the good old days when the alliances were tightly led by the dominant partners.

However, it is clear that the clock will not turn back. It is to the problems of the new era, which is clearly a strange amalgam of old ingredients and new, that Amitai Etzioni urges us to turn our attention.

For Etzioni the dominant factor in the present situation is the obsolescence of the old strategies which he terms duopolistic. All the important trends mentioned above—nuclear deterrence at the strategic level, advancing polycentrism, and the demands of conflict in the third world—call, in his view, for a new Soviet-American regime of competition under rules reflecting the two countries' relationship as limited adversaries. While Soviet goals, if they have changed somewhat, have not changed centrally, there has been significant narrowing of the range of means that the Russians are prepared to use. "The Soviets," Etzioni says, "are pressed by the combination of containment and deterrence to limit their expansionist efforts largely to nonarmed capabilities . . ." (p. 23). New opportunities are thus presented for revised strategy on all fronts of the global encounter. On all fronts, Etzioni has views to offer.

Starting from the premise, with which one cannot argue, that there is substantial erosion in the familiar alliance relationships and that this process is likely to continue, Etzioni concludes that the two great powers should be more willing than they have been to negotiate directly with each other about the major issues of European peace. "An effective give-and-take between the United States and the U.S.S.R. requires both to be less sensitive to their respective allies and more ready to make interbloc arrangements, be it arms control or such political issues as the status of Berlin." The reason this has not taken place, according to Etzioni, is that the thinking of both powers "seems to be fixed to the bipolar state of the early fifties" (p. 65). Etzioni recognizes the risk that such a policy might result in disagreement between the great powers and their respective allies, a risk which Etzioni dismisses as of minor importance and one which, he points out correctly, exists in any case.

This kind of projection of a mode of conduct is difficult to evaluate in the best of circumstances. It is doubly so when it is offered as an abstraction, without reference to the particular goals to be sought in such negotiations, the issues to be dealt with, the prices to be paid on

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each side. What objectives of negotiation are worth disagreements among allies? On such a question, the guidance Etzioni gives is that the deals have to be big ones, because in that way they will be easier to enforce against reluctant allies—an assertion which Etzioni believes to be so self-evident it requires no justification. A reviewer hesitates to place himself in a position where he can be accused of carping. But Etzioni does invite a question about what kinds of agreement—"the more important and broad in scope" the better—he has in mind. An agreement not to unify Germany? An agreement to unify it? An agreement to disarm in the center of Europe, either partially or totally? General disarmament?

In short, the kind of analysis Etzioni offers on the need for Soviet-American negotiation does not clarify difficult problems; it merely avoids them. His view is even more surprising considering his clear recognition that nationalism is a significant contemporary fact and that German commitment to reunification may well become, in his own words, "a major force," a conclusion with which this reviewer is in hearty agreement. What sense does it make—in circumstances in which the European allies of the great powers have major interests at stake and show a growing disposition to pursue them—to suggest that the best way to deal with allies is to ignore them? As a remedy for the duopolistic leadership he abhors, what does Etzioni propose? In this respect, pure duopoly!

Moreover, Etzioni at least hints that one of the advantages of his new approach would be to overcome the built-in limitations of past duopoly, which did not permit either side to win over faltering partisans of the other. "Duopoly," he says, "also gives up the hope of making a major inroad into the other camp . . . by winning over a major member following an internal rift" (p. 64). It is in the second following paragraph that he offers his suggestion about the great powers negotiating directly with each other. One has somehow a picture of big league baseball, with two teams swapping players amiably while raiding each other's rosters surreptitiously. However, big league baseball has recognized that the two styles are incompatible. How they can be reconciled in the league of great powers, Etzioni leaves obscure.

In short, the reason the United States and the Soviet Union have not ventured further in the realm of direct negotiations with each other may be a good deal more complex and a good deal more serious than Etzioni's advice leads us to believe. It is, of course, true that polycentric tendencies have drastically altered the quality of alliance re-

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lationships. They may also have opened up opportunities for profitable new lines of diplomacy, although as has been here suggested, it is not self-evident that the hazards will not also mount. The real challenge, the challenge Etzioni virtually ignores, will be to conduct relations between the two camps in such a fashion that the independent expression of European interests will not sever such fragile ties of confidence as have been knit between Washington and Moscow. It would be a poor bargain between the great powers that convinced Germany and France, for example, that pursuit of their national goals required a ruthless effort to set Moscow and Washington against each other. What would be the character of the domestic politics of the two countries in such circumstances? It is only because this has not thus far occurred that we now confront the opportunities Etzioni has espied. To prevent its happening remains as important an objective of policy as any goals that might be sought via the route Etzioni has sketched. At the very least, it will be necessary to pay sensitive heed to the requirements of allies on both sides of the European dividing line if secure progress is to be achieved.

In dealing with new conditions in the third world, Etzioni once more correctly identifies emergent trends and once more offers sweeping, but not in all cases entirely convincing, projections of policy. The general argument is that the trend toward softening the duopolistic competition should be accentuated. There should be greater willingness to support nonaligned countries, which are no less important than are allied countries as bastions against the expansion of communism. The two great powers should undertake to limit their competition to unarmed means. External military forces and bases should be withdrawn. The great powers should "declare an embargo on shipment of arms and troops to these areas, agreeing to do all they could to see that their allies complied with such an embargo, as well as preventing actual shipment if attempted" (p. 100). The rules should be enforced, as in the Austrian model, by "remote deterrence," i.e., by the willingness and ability of the great powers to intervene with force, from outside the area, if the rules are broken. There should be a UN observation force, a "flashlight force," composed of nationals of third countries, to dispose of suspicions about violation of the embargo.

It is to Etzioni's credit that he recognizes that this program may prove to be unattainable. But he does not think that will be the case because of the advantages the program offers to both competing sides and to the third countries. Moreover, he regards it as a strategy of "minimum regret" because the major deterrent forces would not be

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affected, because the Western heartland would not be directly affected by any setbacks, and because losses might be retrievable.

Clearly, if the powers see it as Etzioni does, if they in fact agree that their interests would be served by the acceptance of the kinds of restraints that he suggests, his prescriptions would be constructive and valuable. They would, however, not solve all problems. How do you prevent sovereign governments from shopping around in world markets for arms to serve whatever sovereign purposes they may have in mind? Etzioni's solution to this, incidentally, seems to smell very much like duopolistic policing of the world. Is it really possible to impose rules effectively on other powers—Communist China is only the most obvious example—that may not see their interest served by the rules accepted by the Soviet Union and the United States?

But the central questions arise if the great powers do not see the world as Etzioni believes they ought to. What is the evidence? It is very hard, for this reviewer at least, to read the history of events in the past few years as supporting Etzioni's optimism—events such as Soviet intervention in the Congo in violation of the rules of the UN operation there; Soviet arms aid to Indonesia and Egypt, which can only be described as mischievous, legal though it may be; Soviet tanks and antiaircraft missiles appearing in Cyprus; U.S. support for the legitimate governments in Vietnam, Laos, and the Congo; and great-power inability to agree on support of UN peacekeeping functions. The trend, sadly, seems to go in the wrong direction. As much, therefore, as this reviewer shares Etzioni's belief in the importance of seeking to establish ground rules to govern competition in the third world, he is unable to foresee its coming to pass in the short term. In an important sense, Etzioni's solution solves the problem by wishing it away.

Although he argues that means can be separated from ends, fulfillment of Etzioni's program really would require the great powers to reach at least limited agreement on their goals in the third world. Even if they cannot adequately agree, such a program might be useful nevertheless. But then it becomes necessary to examine the risks and costs of partial success.

Particularly, the question of "remote deterrence" has to be examined with some care. In the first place, the Austrian model may be misleading. Other parts of the world may not seem as intimately linked to the interests and deterrent power of the guarantor states as Austria is.

Then, one should examine carefully the assumption, which Etzioni seems to make, that the United States has or might easily have ap-

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propriate military capacities adequate to enforce restraints subjected to the test of violation by the other side. It is not self-evident, despite Operation Big Lift, that the United States does have such capability. Etzioni's program might well have consequences for permissible force limits and permissible equipment under any agreements to limit arms. Almost certainly, it would place heavy strain on base facilities in areas adjacent to the guaranteed zones, rather than serving the goal, which Etzioni appears to assume is attainable, of permitting the elimination of military bases. While developments in strategic capabilities may well be reducing the utility and the need of strategic bases abroad, those same developments, by shifting the emphasis toward lower levels of military engagement, may well increase rather than diminish the importance of bases and staging facilities suitable for conventional forces. By assuming the withdrawal of forces now located in areas where they might be employed, Etzioni increases, rather than diminishes, the importance of intermediate staging and base facilities. The alternative to having adequate conventional-force capabilities would presumably not be highly desirable to Etzioni or anyone else: namely, to rely on strategic responses in order to police low-level violations of the system of restraints. If Etzioni should prove to be wrong in his apparently confident assumption that the United States could readily meet the policing needs with relevant conventional strength, the Etzioni program might result in the necessity to police by strategic nuclear means a violation of an embargo on the shipment of arms to a third-world country—Indonesia, for example. The assumptions underlying Etzioni's program deserve careful attention.

Etzioni has outlined an optimistic but uncertainly probable picture of an unfolding future. He has not equally addressed the less optimistic projections.

Another aspect of the problems posed by the third world is dealt with in the chapter "Intervention for Progress," the general thesis of which is that U.S. aid programs should be "tied to progress." The thesis is not without anomaly. Arguing once more against duopoly, by which he seems to mean a strategy of aiding allies but not others, Etzioni offers a prescription for unarmed competition with the Soviet Union. He sees such competition not as merely preferable to the risk-laden conflict of today but as positively desirable, a stimulus to progress. It is difficult to see how the concept of duopoly is analytically helpful if the assumption that it is obsolete leads to the conclusion that it should be succeeded by bilateral competition. One would have thought that after duopoly the evolution would be toward forms of multi-

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lateral cooperation. However, Etzioni is clear in his belief that multilateralism is premature and at present less desirable than the kind of competition which he expects to be both manageable and creative.

Etzioni is indignant over the United States' tendency under duopoly to support what he terms tyrannical regimes. He generalizes rather broadly about U.S. behavior and about the alternatives that have been available. He argues against the widely held belief that it is necessary to work with inadequate governments because alternatives are hard to come by. To counter this argument, he cites the long-held belief that there was no alternative to Trujillo, and points to the appearance on the scene of Juan Bosch as conclusive disproof! To clinch the point, he cites a *New Republic* article which "provided a long list of 'alternatives' for Diem" (p. 140). Recognizing that finding suitable replacements for tyrannical, unpopular regimes may sometimes be difficult, Etzioni advocates what he likes to call "multi-toppling"—if at first you don't succeed, try and try again. He adduces no evidence to support the notion that the last government (if one is found) is very likely to be more satisfactory than the penultimate "toppled" one, or than the one before that. This sort of suggestion comes a bit strangely from one who inveighs against the "surprising sense of omnipotence" among those advocates of "intervention for progress" who have, as Etzioni correctly points out, overstated intervention's potency and underestimated the obstacles (p. 146).

Etzioni urges that intervention for progress will profit from a United States willingness to take greater risks in supporting "progressive forces." This recommendation implies that "progressive" governments are able to serve the end for which aid support is given—development. The record seems mixed. Nasser may well have produced more development in Egypt (despite heading a regime of soldiers) than would an alternative kind of government there. Can the same be said of Nkrumah in Ghana or Sukarno in Indonesia—or Castro in Cuba? Etzioni would not say so in all cases. The subject is worth thoughtful exploration. The reciprocal question which has had some attention lately is whether or not rightist or military regimes are capable of producing constructive change, including development. Etzioni doubts it in general. But he does acknowledge that Ayub Khan is attempting an interesting experiment in Pakistan "in gradual democratization."

A final word about this chapter is called for, at the risk of giving an appearance of pettiness. Trivial, perhaps careless, errors call into question the confidence to be placed in Etzioni's judgments. For ex-

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ample, the rulers of Nicaragua are twice called the Samoa family. (Three times, counting the index.) Is it correct to call Diem, whatever his shortcomings, "this playboy puppet" (p. 139)? (Is Diem perhaps confused here with the Emperor Bao Dai?) Is it misleading, in alluding to Diem's repression of the Buddhists in 1963, to say "Nor was he new to the business of crushing religious groups; in 1955 he had turned his forces loose against two sects, the Hao and the Hoa" (p. 141)? (The Hao and the Hoa are not two sects, but one, the Hoa Hao.) In 1955, Diem did put down armed rebellion by the Hoa Hao and by a second religious sect, the Cao Dai, but in both cases, according to the Council on Foreign Relations' respected annual *The United States in World Affairs*, the sects "summoned against him popular and armed dissent."[1] While it is true that Diem did "crush religious groups," he did so in the 1955 cases in response to acts of armed insurrection. The analogy is superficially attractive but factually less than precise. What is one to make, moreover, of an analyst who saw Indonesia "moving closer to the West in 1963" (p. 149)?

Etzioni next turns to arms problems and to the long-term evolution of the general structure of international relations. In dealing with arms questions, Etzioni follows the broad outlines of his earlier work *The Hard Way to Peace*.[2] His emphasis is on strategic parity and gradual force reductions—measures that require minimum inspection and that lend themselves to verification without the creation of new impartial mechanisms. On the whole, Etzioni's position fits what Robert Levine has called "the marginalist view" in the spectrum of outlooks on arms questions.[3] It is difficult to understand why Etzioni feels himself to be at odds with the policies being pursued by the government with respect to disarmament and arms control. Clearly, there have been in various periods substantial differences between the enunciated policies of the government and the advice Etzioni gives. However, there is no doubt room for difference between what the government says and the actual evolution of goals and strategies being pursued in the flux of world events and intramural tensions. The recent behavior of the government can be interpreted as covering most of what Etzioni suggests.

This reviewer will linger on only one aspect of Etzioni's position. Etzioni by and large accepts the conventional view that arms reductions and verification arrangements have to be positively correlated in

[1] Hollis W. Barber, *The United States in World Affairs, 1955* (New York 1957), 113.
[2] (New York 1962).
[3] Robert A. Levine, *The Arms Debate* (Cambridge, Mass., 1963).

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the late stages of reduction. That is, the deeper the arms cut proposed, the more necessary it will be to have reassuring inspection arrangements. Etzioni argues, correctly in this reviewer's judgment, that, in the early stages, much reduction can be achieved without special arrangements for verification. The powers can in many cases use available national means to verify performance. Moreover, until the cuts are very major ones, the force balances after the cuts have been made remain relatively adequate and, hence, relatively invulnerable to all except very large efforts to evade. The conventional argument goes on to say that thereafter, when the large reductions do pose risks of substantial gains through competitive violation, verification arrangements will become essential. However, it seems on the whole more likely that when the risks of possible violation become great, even verification arrangements could not adequately assure suspicious powers that their interests are not being vitally threatened. It seems more likely that such far-reaching reductions will not take place at all unless a climate of political confidence has substantially reduced the burdens that verification would be called upon to bear. Thus, at any stage in the process of arms reduction, verification is less important than it has been thought to be as an essential contribution to the technical and strategic needs of suspicious nuclear powers. However, it may well be that verification is more important than has been assumed in performing another role: contributing to the development of that mutual confidence in the early stages which is prerequisite to the more far-reaching reductions of the projected later phases.

Etzioni's overall conclusions are implicit in what has already been said. He emphasizes peaceful competition, and the development of machinery to help regulate such competition. Neither of the duopolists needs to renounce its goals. Both must accept limits on the means they employ. Without ever saying so specifically, Etzioni clearly calls on the Communist nations to accept limits on the means they employ in supporting wars of national liberation. Clearly, if such a world should evolve because the principal powers see a common interest in limiting the risks posed by the alternatives, there is nothing important to be gained by insisting that the change would be more than a change of method, but would reflect a change in goals as well. If a spoonful of sugar will help the medicine go down, then by all means let's not insist that the medicine is really quite a bitter dose.

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DEMOCRATIC STABILITY AND INSTABILITY

The French Case

By ERIC A. NORDLINGER

Michel Crozier, *The Bureaucratic Phenomenon: An Examination of Bureaucracy in Modern Organizations and Its Cultural Setting in France*, translated by the author, Chicago, University of Chicago Press, 1964, 319 pp. $7.50.

I

THE outstanding characteristic of the French political system is its historical instability. Constitutional monarchy was overthrown by a revolution, replaced by a republic, which in turn quickly evolved into a dictatorship, and when it too was dismissed by an armed uprising, the interminable squabbles among the monarchist factions allowed another republic to come into existence by default. But for an "accident" of history this republic too would have given way to a dictatorship through the bloodless medium of the coup d'état, but while the republic tottered on in the interwar period the life-span of its governments was calculated in terms of months rather than years, and with its "collapse" under the coup de grâce of military defeat a new dictatorship immediately sprang up to take its place, to be succeeded by another republic lasting for thirteen years amid constantly recurring cabinet crises, then falling in the wake of an eminently successful revolution, out of which emerged the present regime. Here we have what sociologists might label the "institutionalization of instability," interpreted by a number of leading writers on French politics as the product of a deep-seated conflict between the "two Frances," whether these two political subcultures are viewed as the parties of *mouvement* and of *l'ordre établi*,[1] or as the "administrative and representative traditions."[2]

Nor is this cleavage confined to the political realm. It is well grounded in two opposing and mutually exclusive cultural edifices. To quote Siegfried, "Party divisions . . . are based on opposing conceptions of life, and the instinctive personal reaction of like or dislike to-

[1] François Goguel, *La politique des partis sous la troisième République* (Paris 1946).
[2] Nicholas Wahl, "The French Political System," in Samuel H. Beer and Adam B. Ulam, eds., *Patterns of Government* (New York 1958).

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ward a certain social order."[3] Traditional France, favoring order at the expense of liberty, the Catholic Church at the expense of the republics, following and pushing forward the "caesars" of France in the face of democratically constituted authority, can most succinctly (for our purposes) be subsumed under the phrase "the France of hierarchical order." The France of the Left, with its clarion call for liberty and equality, for decades working toward a levelling state socialism, believing in the camaraderie of the working class, can most aptly be characterized as "the France of idealistic egalitarianism."

Adherence to the doctrine of hierarchy is manifested, for example, in attitudes toward the equality of the sexes. When asked in a national survey whether or not they believe in the equality of salaries for men and women doing the same jobs, the proportion of respondents saying "yes" steadily decreases as one moves from Left to Right on the political spectrum.[4] Two conflicting orientations toward authority are also exhibited in the work-place, the meeting place of the bourgeoisie and the workers. Desiring equality in their social relations, the workers manifest similar attitudes toward employer-employee relations. As one French worker put it: "The worker wants equality on the job because he practices equality with his wife and with his pals and children."[5] Though wanting equality for themselves, almost all the workers interviewed by Cantril and Rodnick had the feeling that they were being looked down on by the *patron*, who viewed them as objects with which to make money. Nor were these feelings entirely illusory, for the same authors found that *patrons* of all types believed in a social hierarchy with themselves as the self-appointed elite. And it is just this attitude that is largely implemented by the bourgeoisie in their economic establishments.[6] In France the common pattern of employer-employee relations is almost simplistically military in na-

[3] André Siegfried, *France: A Study in Nationality* (New Haven 1952), 26.

[4] *Sondages*, No. 17 (1948), 222.

[5] Hadley Cantril and David Rodnick, *On Understanding the French Left* (Princeton 1956), 14.

[6] *Ibid.*, 18, 67. Roy Lewis and Rosemary Stewart describe the French businessman as "paternalist and autocratic, treating his employees as *'mes enfants'* . . ." (*The Managers: A New Examination of the English, German, and American Executives* [New York 1961], 186). It is this hierarchical orientation among the employers that is responsible for the deep division between employers and employees. Given their elitist assumptions the employers have not been able to bring themselves to accept the legitimacy of trade unions in anything resembling a graceful fashion. Not even the crisis period of the "phony war" in 1940 dissuaded the employers and the Daladier government from mounting an unrelenting attack upon the unions' organizing and bargaining rights.

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ture.[7] The *patron* exercises practically all authority, without even the presence of an American-type foreman through whom authority is mediated. Nor does the *patron* seek advice or approval from his workers, except in those instances in which effective unions force him into this position. It is then no wonder that the worker feels himself to be acted upon, consequently developing an intense desire for liberty.[8]

No doubt the disparate political orientations dividing the France of hierarchical order from the France of idealistic egalitarianism are of fundamental importance in accounting for the system's constitutional and governmental instability. The differing conceptions of the state and its relation to society held by the two Frances continually call into question the legitimate form of the state as prescribed by the constitution; and their near balance of strength, combined with the ostracism of the extreme Left and extreme Right from both the government coalitions and the "loyal" opposition, places a heavy burden upon cabinet government. Yet what makes the mutual antagonism so intense and pervasive is the solid congruence of these two conceptions of government with their accompanying attitudes toward religion, the family, social equality, and the relationship of man to society, resulting in two remarkably resilient cultural edifices supporting the two conflicting views of the ideal political system. It is just this structural rigidity—this congruence of political and nonpolitical attitudes—that severely militates against the two political subcultures' becoming inclusive rather than exclusive toward each other.

However, notwithstanding the extensive validity and explanatory power attaching to this interpretation of French political instability, there are three reasons for thinking it inadequate: first, the dichotomous argument is too simplistic, particularly as modernization and industrialization have erased the acute distinctiveness of the two cultures, leaving only vastly depleted political troops as representatives

[7] Georges Lasserre, "Le Monde ouvrier dans la societé," in André Siegfried, ed., *Aspects de la societé Française* (Paris 1954), 122.

[8] In a 1955 survey of manual workers, the questions were asked: "Are there ideas to which you are strongly attached in the political and social spheres? What are these ideas?" About twice as many workers selected "liberty" rather than "betterment of workers' conditions," "equality," or "social justice" (*Les Temps Modernes*, July 1955). These data sharply underline the workers' desire for liberty since more than twice as many workers prefer this amorphous entity to specific and concrete economic betterment and social justice.

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of the traditional France of hierarchical order;[9] secondly, the argument is difficult to apply to the actual workings of the governmental system—a system founded on excessively pragmatic bargaining techniques rather than on the clash of ideologies;[10] and thirdly, with the publication of Michel Crozier's exceptional study, a more powerful, elegant, and contemporaneously valid interpretation of the French political system is available.

II

Crozier is concerned with two problems: a novel and persuasive theoretical analysis of bureaucracy, and an analysis of the interconnections between a bureaucratic system of action and the social and cultural setting in which it functions. The author's analytical skill is not evidenced only in the execution of these two objectives. His work must be accorded additional praise for the "sociological imagination" shown in developing the rather standardized original data concerning the functioning of two bureaucratic organizations into a study that should be most useful to political scientists, sociologists, and students of French society. In the present review article, the discussion will be limited to Crozier's interpretation of French authority relations and the application of his model to the political system.

Just as a country's political culture is embedded in the larger social culture, authority relations are set in the matrix of social relations. Thus before characterizing French authority relations *per se*, it would be well first to look at Crozier's comments regarding a broader range of interpersonal relations. In his survey data and research into the operation of two bureaucratic organizations, Crozier found three typical patterns of action that are also manifested throughout French society: "the isolation of the individual, the predominance of formal over informal activities, [and] the isolation of the strata" (p. 214). For example, notwithstanding the clerical workers' need for social support (most of the workers having come to Paris from the provinces in order to find work), only rarely did any of them report having any friends at the work-place. And even those who did have friendships found that these did not develop into strong and lasting relationships. Moreover, there were few associations of any sort that could serve as instruments of social integration. The trade unions were

[9] For an excellent series of essays on political, social, and economic change in contemporary France, see Stanley Hoffmann and others, *In Search of France* (Cambridge, Mass., 1963).

[10] The place of ideology in the political system is discussed in Section IV of this review article.

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fairly active, but membership in these organizations remained on a purely formal level, entailing a minimum of participation. And even when friendships and informal groupings (e.g., cultural, educational, or social activities) did exist, their membership did not cut across the various formal strata within the two bureaucratic organizations.

According to Crozier, these patterns of action are rational responses for the attainment of the clerical workers' values. Contrary to the assumption of American social scientists that people want to participate in their organizations, Crozier correctly points out that "It is a partial view indeed which expects people to be always eager for participation. People are very ambivalent towards participation. . . . On the one hand, people would like very much to participate in order to control their own environment. On the other hand, they fear that if and when they participate, their own behavior will be controlled by their coparticipants. It is far easier to preserve one's independence and integrity if one does not participate in decision-making. By refusing to be involved in policy determination, one remains much more free from outside pressure" (p. 204). It is for this reason that the French tend to insist upon strict equality between members of the same strata; protection is afforded the members of the strata by the imposition of this equality, which prevents interference from higher authority by a defensive banding together whenever a superior attempts to exercise his formal authority. In addition, it is recognized that separate informal activities could very well weaken the cohesion of the formal group. It is this protective rationale that supports the sterility of French interpersonal and intergroup relations. (This analysis could be taken one step further, to show that it is a deep-seated insecurity among many sections of French society that leads to the assumption of a protective posture in their social relations.)

Crozier goes on to cite the work of Jesse R. Pitts, who characterizes both informal and formal French associations as "delinquent communities." These are defined by "jealous equalitarianism among the members, difficulty in admitting newcomers, and a conspiracy of silence against superior authority. They do not deny authority, however. Indeed they are incapable of taking initiatives except in interpreting the directives of superior authority and accommodating themselves to those interpretations. In an effort to create for each member a zone of autonomy, of caprice, of creativity, these peer groups thrive on the unrealism of the authority's directives."[11] French associational

[11] "Continuity and Change in Bourgeois France," in Hoffmann and others, 259.

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activities thus maintain a negative solidarity—a solidarity against authority. Their rabid egalitarianism prevents the emergence of peer-group leadership, or even acceptance of the authority of formal superiors (to whom it might be easier to accord this prerogative, since peer-group jealousy would not be an issue).

The "delinquent community" is thus a protective device vis-à-vis external authority and is at the same time an efficient system for making it impossible for a member of the peer group to attain a leadership position. As a number of sociologists have pointed out (among them Wylie, Bernot, and Blancard), this strong tendency to prevent any group member from raising himself above the others, and to see initiative as bossism, is a common French behavioral characteristic. "Non-participation is then a rational response if people want, above all, to evade conflict situations and to escape dependence relationships. Strata isolation, focusing on rank and status, and the impossibility of informal grouping across strata all stem from the same difficulties. All these traits ultimately refer to the basic cultural conditions predetermining the possible scope of authority relationships" (p. 220).

Authority relationships are marked by the avoidance of face-to-face dependence relations (*l'horreur du face à face*) and the avoidance of open conflicts between groups that directly confront each other. "Authority is converted, as much as possible, into impersonal rules. The whole structure is so devised that whatever authority cannot be eliminated is allocated so that it is at a safe distance from the people who are affected" (p. 222). This pattern of authority stems from two contradictory goals: the extremely high value placed upon personal independence—or in reverse fashion, the abhorrence of personal dependence relationships—and the recognized need for a powerful directing authority if any cooperative activity is to succeed. The French try to reconcile these two goals by allowing for a centralized authority, while at the same time insisting upon impersonal, protective relationships, i.e., individual and strata isolation to prevent interference from above. This reconciliation may be a satisfactory one for the individual, but, as will be seen later, it is dysfunctional for the efficient operation of formal and informal systems of action. For what the French are doing is balancing (rather than integrating) absolutist conceptions of authority. Central authority is invested with supreme power, yet the people formally subject to that authority refuse to give up even a modicum of their independence so that the authority's directives can be carried out. Both superiors and subordinates claim for themselves an absolute right that cannot be shared or compromised.

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Such a system of action cannot handle moderate and steady change. It produces a cyclical alternation between periods of unrelenting and stubborn routine and periods of crisis when change finally becomes inevitable. Crozier believes this pattern of action to be "a distinctly French feature, inasmuch as it relies on the complex model of individual isolation, lack of communication between strata, and avoidance of face-to-face dependence relationships" (pp. 224-25). Since authority cannot be shared or diffused while dependence relationships are not easily accepted, impersonal rules and centralization offer the only escape. Consequently, power tends to be pushed further and further upward until, even if the subordinates were to permit interference by their leaders, the leaders could not act effectively because of the distance separating the order from its execution. Thus continuous leadership is impossible. The system cannot adapt to change; when change does come it must be in the form of a crisis. Although the people at the top "are all-powerful because they are at the apex of the whole centralized system, they are made so weak by the pattern of resistance of the different isolated strata that they can use their power only in truly exceptional circumstances" (p. 225).

III

Up to this point discussion of Crozier's analysis has centered upon French patterns of interpersonal and intergroup relations in the abstract, although the analysis was originally formulated primarily on the basis of two case studies. In order to provide his interpretation with a further empirical grounding and to show that the patterns of action just described are ideal-typical for all French institutions, Crozier applied his model to four important institutional systems: the educational system, the colonial system, the industrial relations system, and the "politico-administrative system." This reader, for one, is satisfied that with the possible exception of the colonial system Crozier's model finds its validation in each of these four areas. Here, however, the discussion will be confined to the political system.

Crozier's analysis of the political decision-making process in terms of three interrelated subsystems—the administrative, the policy-making, and the revolutionary grievance-settling subsystems—brings coherence into what many other students of French politics have analyzed either in an unsystematic or in a legalistic-institutional fashion. Moreover, Crozier's scheme is not confined to a static analysis of the political system; it also leaves room for a dynamic interpretation.

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The administrative subsystem handles the routine, already established programs of government. It is afflicted with two characteristic weaknesses of the ideal-typical French decision-making process. The men who actually make the decisions reside at an excessive distance from the people to whom the decisions are applicable and the reality to which they refer. Secondly, the difficulties of coordination, which are omnipresent in all organizations, are heightened in this instance by the civil servants' rigidity (their absolutist conception of authority) in relations with groups inside and outside their organizations, while the fear of face-to-face dependence relationships leads them into a panicky fear of overlapping spheres of authority. The outcome is a self-perpetuating circle in which further centralization appears to be the only answer to the bureaucrats' unwillingness to share authority and their abhorrence of overlapping responsibilities. In turn, this structural factor (overcentralization) reinforces the upward spiral of responsibility, increases the frustration and lack of initiative found at the lower levels, and leads to further isolation of the various strata. Given these disabilities, the administrative subsystem is able to act only as an instrument of order, rather than as one of change and innovation.[12] Consequently, when issues unquestionably demanding change arise, the administrative subsystem must resort to the next highest level, the policy-making subsystem.

The parliament and the governments it produces would appear to be omnipotent, considering the absence of any institutions that could challenge their preeminent authority. Yet again, this seeming omnipotence goes hand in hand with actual powerlessness. The civil service has taken over responsibility for the country's actual problems at the local and regional levels, while the deputies join in unproductive clashes over the divisions separating Frenchmen from one another. Since these issues have not been handled effectively by the deputies, they have had to be settled by changes of government rather than by the writing of legislation. This cyclical pattern has produced "the predominance of the government, since matters could be settled only at the government level, and its helplessness, since parliament has been the constant arbiter of intragovernmental struggles and has yielded to the government only for as long as necessary to handle the crisis it has been unable to solve alone" (p. 256). Or to summarize the situation by adapting one of Stanley Hoffmann's felicitous comments: French governments do not govern; they occupy power.

[12] This is true at the prefecture level as well as at the highest level of the *Grand Corps*, whose major function is to control and oversee the work of the lower echelons.

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"To have lived through the transition stage of modern Japan makes a man feel preternaturally old; for here he is in modern times, . . . and yet he can himself distinctly remember the Middle Ages."—BASIL HALL CHAMBERLAIN.

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Crozier is quite correct in disregarding the presumed structural factors as the causes of the government's ineffectiveness and instability, and in turning instead to the cultural characteristics of the political class. But here one is best off following Melnik and Leites in their description and detailed analysis of the men of the policy-making subsystem.[13] In the first place, both the *piétaille* (the backbenchers) and the *ministrables* (the group of potential ministers) subscribe to an isolationist view of the parliament. "There is in the Parliament a tendency to ignore the outside world and concentrate almost fanatically on its internal affairs." And elsewhere in their study, Melnik and Leites can write that parliament members carry about with them an "impression of the Parliament as existing outside of space and time, cut off from the outside world."[14] There also exists in the parliament an extreme egalitarianism stemming from an intense desire to be independent, to be free to act in whatever manner personal advantage may dictate.[15] Further, the deputies manifest a strong urge to put off action until the last possible moment; they will not act until impelled to do so by an external force. This predisposition is expressed in the familiar parliamentary dictum that "It is only with your back to the wall that you can make a proper choice."[16] Clearly these types of behavior are largely responsible for the ineffectiveness and instability of the parliamentary system.

But the most characteristic and significant feature of parliamentary behavior is a rebelliousness against authority, an inability to allow authority to others or to engage in collective action entailing superordinate-subordinate relations. The premier is "tolerated only when he is at everyone's disposal: resistance (or an error) on his part provokes demands for his resignation. The [ensuing] hubbub provides a good deal of pleasure, for it enables the individual to rebel against authority in an atmosphere of communicative good fellowship."[17] The political malaise produced by this cultural foundation is poignantly expressed in one of Raymond Aron's quotable comments: "The Re-

[13] Constantin Melnik and Nathan Leites, *The House Without Windows* (Evanston 1958). It is recognized that this study is based upon analysis of a single event—the process by which René Coty was elected President of the Fourth Republic—and that the conditions under which the election took place in Versailles differed from those prevailing in the Assembly and Senate: the absence of tradition-honored procedures for electing a President and the secret ballot are just two factors that differ from the conditions under which prime ministers were invested. Nevertheless, the generalizations cited here are thought to be almost equally applicable to the politicians in their usual habitat.

[14] *Ibid.*, 16, 66. [15] *Ibid.*, 97. [16] *Ibid.*, 34. [17] *Ibid.*, 108.

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CASES IN COMPARATIVE POLITICS

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WEST GERMANY — Gerard Braunthal
University of Massachusetts

SOVIET UNION — John E. Turner
University of Minnesota

INDIA — Gene D. Overstreet
Institute for Sino-Soviet Studies of George Washington University

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public was so afraid of great men that it was forced, from time to time, to have recourse to saviours."

Since the policy-making subsystem is able to furnish neither leadership nor a minimum amount of authority, it is not able to find or impose solutions upon the problems gripping the society. The result is "escalation": a third subsystem has necessarily evolved to resolve the conflicts that should have found their solution in the legislature or the executive. Referring to the Fifth Republic, Hoffmann could write that "never before has resort to violence been so widespread and treated so casually. The ungodly spectacle of party squabbles and cabinet crises had been eliminated, only to be replaced by an even ungodlier one. If the institutions of yesterday were too close to a shaky ground, those of today are too far removed, and dissent tends to express itself through direct action—strikes, plots, bombs and coups."[18] It is this institutionalized resort to violence that Crozier calls "the revolutionary grievance-settling subsystem." Nor is this mode of action confined to a particular time or to a particular social class. When other avenues have failed to provide complete satisfaction, resort to direct action has been a common French reaction. Since the end of the nineteenth century, workers, farmers, civil servants, shopkeepers, students, and *colons* have all resorted to this style of decision-making; and its acceptance by the French is perhaps best illustrated by the leniency with which the courts treated the perpetrators of terrorism and rebellion under the Fifth Republic.

IV

It was originally suggested that Crozier's interpretation is preferable to the standard argument regarding French political instability delineated at the outset. But what of the other competing hypotheses that are said to explain political instability? Additional weight is given Crozier's argument when it is seen that these competing hypotheses are untenable or that they can be subsumed under Crozier's wide-ranging interpretation.

One of the political scientists' more popular whipping boys for the instability of French governments is the multiparty system. It is undoubtedly true that the presence of more than two parties can make the task of forming and supporting stable and effective cabinets a more difficult one; and in a multiparty system it is also more difficult than in a two-party system to aggregate interests. Yet this is hardly an

[18] "Paradoxes of the French Political Community," in Hoffmann and others, 94.

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adequate explanation for governmental instability in France, especially since there are a half-dozen or more European countries that have or have had multiparty systems supporting stable and effective coalition governments.

It may be, however, that it is not the multiparty system alone but a confluence of the multiparty system and the ideological inundation of French politics that is responsible for the political system's weaknesses, with ideologism aggravating the structural disabilities of a fragmented party system. This argument finds support in a comparison of successful and unsuccessful multiparty systems: in Austria, Norway, Denmark, Switzerland, Belgium, and Holland, where dogmatic ideological stances are infrequently assumed, the existence of more than two parties has not served to undermine the system by preventing the emergence of effective coalition governments, while in Weimar Germany and contemporary Italy, the conflict of mutually exclusive ideologies has eliminated this possibility.

Notwithstanding the force of this argument and the many writers who have attributed France's political ills to the diffusion of conflicting ideologies, the evidence for this proposition is far from conclusive. Almost all those writers who point to the political parties' ideological rigidity as the impediment to the development of a pragmatic politics based on compromise have conveniently overlooked the way in which the game of politics is actually played in France. Although ideologism pervades the parties' electoral and propaganda efforts, this public ideological posturing of French politicians does not prevent them from playing out their game of compromise in the Assembly and its *couloirs*. In fact, the political class thinks of compromise as a positive principle of action, with parliamentary activity largely revolving around nonideological squabbles in which pork-barrel legislation, private gain, political advantage for the individual deputy and his party, and personal vendetta take pride of place. Nor does the ideological argument hold much water when it is recalled that in the Third and Fourth Republics the least ideologically inclined party—and that is just about the most positive statement that can be made about the Radical Socialists—provided the largest number of prime ministers. Furthermore, the old ideological debates over education, clericalism, foreign policy, and nationalization lost most of their dogmatic intensity after 1954, yet the stability and effectiveness of the system did not vary concomitantly with the softening of ideologies.[19]

[19] This is not to say that ideological predispositions—with their affinity for deductive systems of thought in which the real world can often be ignored—have disappeared.

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A third argument regarding the instability of French government demands a good deal more attention to uncover its inadequacies. Kornhauser's theory of mass society is not directly a theory of stable democracy.[20] Yet in the French case it could be viewed as such since the rise of mass movements was frequently the immediate cause of the downfall of republics and governments. Although there is some debate whether the Third Republic "collapsed" or whether its demise was simply due to military defeat, in either case the proliferation of mass movements in the 1930's made a signal contribution. Two rapidly growing parties on the Left—the Communists and Socialists—were able to mobilize a mass following, while the nationalist and semi-Fascist Right was spewing out a host of mass movements, at the head of which stood the Croix de Feu. And in the 1950's the Fourth Republic had to contend with an ugly Poujadism, to be succeeded in time by a successful Gaullist revolution. There is thus certainly more than one connection between the existence of mass movements and the functioning of the political system. But can Kornhauser's theory, which attributes the rise of mass movements to the absence of voluntary associations mediating between the masses and the elite, account for the rise of mass movements in France?

So far as this writer is aware, there is only one nationwide sample of Frenchmen who were asked about their membership in voluntary associations. It was found that 41 percent of the French belong to at least one such organization.[21] To be meaningful, this figure must be related to comparable data for other countries. In their comparative study, Almond and Verba found that 57 percent of the Americans, 47 percent of the British, 44 percent of the Germans, and 29 percent of the Italians were association members.[22] When the French figure of 41 percent is inserted into this grouping, it is seen that the data hardly support Kornhauser's theory. The French figure is significantly closer to the British and German ones than it is to the Italian; yet it is the British system that has been historically stable, as is the present German regime, something that cannot be said of either the French or Italian systems. In short, if a low rate of group membership accounts for the rise of mass movements, as claimed by Kornhauser with specific reference to the French case, then one would expect the French figure to be closer to the Italian than to the British and German ones. Yet just the opposite is true. Consequently, if Kornhauser's thesis were

[20] William Kornhauser, *The Politics of Mass Society* (Glencoe 1959).
[21] Arnold M. Rose, *Theory and Method in the Social Sciences* (Minneapolis 1954), 70.
[22] Gabriel A. Almond and Sidney Verba, *The Civic Culture* (Princeton 1963), 302.

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to be accepted, it would be necessary to argue that it is simply the difference between the three and six percentage points separating the the proportion of group members in France from the proportion of group members in Germany and Britain respectively that accounts for the rise of mass movements in the former but not in the latter two countries.[23]

Such an argument is patently inadmissible; clearly extensive group membership is not sufficient protection against the rise of mass movements. An addition must therefore be made to Kornhauser's theory. Presumably it is not the number of organization members alone that is significant; the nature of that membership and possibly the nature of the organizations' goals are also relevant.

As we have seen, despite the relative extensiveness of French group life, the country has witnessed the rise of a host of mass movements. The same is also true of Weimar Germany. Although no quantitative data are available for Weimar, it is clear that there was a proliferation of voluntary associations; dramatic societies, choral groups, gymnastic clubs, walking clubs, and card-playing and drinking fraternities dotted the landscape.[24] These two exceptions to Kornhauser's theory—and they are critical exceptions since his data refer almost exclusively to European countries—have two characteristics in common. Every observer of French social life has been impressed by the passive and casual nature of group membership. And the same was true of Weimar's group life. The members joined, but they did not generally participate in running their organizations. While French group members refuse to recognize the authority of association leaders, the Germans hardly thought to question their authority. Yet in both instances the result was a passive membership. Though based on only two cases, the conclusion seems to be warranted that extensive organizational membership alone, without a concomitant involvement, does not offer sufficient protection against the growth of mass movements. Moreover, it will be seen (though limitations of space and subject matter do not permit such a demonstration here) that each of the arguments put forward

[23] And even these differences may not be reliable since the French survey was carried out in the early 1950's and the Almond and Verba surveys were done some six years later, when it is reasonable to expect that the continued industrialization of France had led to an increase in the proportion of group members.

[24] Writing of the *fin de siècle* period, before further urbanization and industrialization led to an even greater increase in the number of voluntary organizations, Robert Michels noted that "the German worker, as his wages have increased, has acquired the disease which is in the blood of the German petty bourgeoisie, the club-mania. In every large town, and not a few small ones, there is a swarm of working-class societies" (*Political Parties* [New York 1959], 289).

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by Kornhauser in support of the theory linking group membership and mass-movement politics is unsatisfactory (logically and empirically) if the size of group membership alone is considered.

A second possible addition to Kornhauser's theory might also be suggested. Arnold Rose has noted the preponderance in France of what he calls "expressive associations," which meet only for social and cultural purposes, over "social influence organizations," which are directed toward public purposes.[25] Again, in Weimar Germany the situation was basically similar. There too the expressive associations greatly outnumbered those organizations whose goals entailed a form of community action. The exceptional ease with which these associations were *gleischgeschaltet* (the process by which Nazi leaders were substituted for the original ones) was at least partly related to the nonpublic and nonactivist goals of these groups. This is to say that expressive associations are generally less able to prevent the flowering of mass movements than are social influence organizations. Certainly if the goals of voluntary groups were added to Kornhauser's theory its validity would be enhanced. In this instance, it would lead to a better understanding of France's mass-movement politics. As it stands now, the theory is inadequate as an explanation for the rise of mass movements in France, and by extension, for its political instability.

V

Crozier's analysis of French political instability was said to be more adequate than the generally accepted interpretation of a culturally divided France, while a number of alternative explanations have also proved to be unsatisfactory. There remain a handful of hypotheses, not directly touched upon by Crozier, that appear to be eminently valid in accounting for the disabilities of the political system. The purpose of this section is to demonstrate that these hypotheses can easily be encompassed within the Crozier interpretation—that they stand at a lower level of generality than does Crozier's. The article will then, it is hoped, have shown Crozier to be a leading guide for students of French politics, for not only is his interpretation the most general and coherent one available, but it is also able to subsume those valid arguments put forward at a less general level, while competing hypotheses are shown to be untenable.

The French are well known for their *incivisme*, a quality that has a political and a nonpolitical meaning. In one sense it is a mixture of

[25] Rose, 73. Charles Bettelheim and Suzanne Frère come to the same conclusion in *Une Ville Française moyenne: Auxerre en 1950* (Paris 1950), 252.

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a diffuse social negativism, a refusal to cooperate with others or to accept responsibility, and a fierce clinging to individual independence—a string of attitudes that might best be characterized as "privatization." It is thought that this cultural trait prevents the formation of the active group life necessary for a two-way flow of communication and influence between the governed and the governors. On a political plane, *incivisme* refers to a singular distrust of politicians and a pervasive suspicion of government. In the popular Radical doctrine erected by Alain, democracy becomes nothing more than the control of the governors by the governed—a system of surveillance rather than representation. Surely Crozier's analysis suggests a connection between both types of *incivisme* and French attitudes toward authority. On the one hand, the fear of face-to-face dependence relations prevents the French from engaging in a personally meaningful group life since this would entail the exercise of informal authority and its acceptance by the group members. On the other hand, the absolutist conception of authority as something that is to be hoarded and that cannot be shared accounts for a large part of the hostility toward politicians and government.

Another widespread interpretation of the political system's malaise focuses upon the political alienation of Frenchmen—their refusal or inability to invest their connections with the regime with any positive meaning, and the related tendency to take direct and extra-legal action against it. French politics is largely played out at two levels—that of the individual citizen and that of the center—and the interconnections between the two are few in number and tenuous at best. The prefecture system is primarily organized around the execution of orders and the forwarding of communications from the center, while the political parties suffer either from the lack of any organization to speak of or from the failure to provide pyramidal structures connecting the local level to the national level through intermediate bodies. It is this overcentralization that is largely responsible for the Frenchman's political alienation; he sees little or no connection between the casting of his vote or the statement of his interests and the decisions produced by the governmental system. There is consequently little reason for him to participate in an orderly democratic politics.

And as Crozier has pointed out, French attitudes toward authority impel the system toward overcentralization, in turn creating a diffuse political alienation with its dysfunctional consequences for the system's stability. At the same time, the citizens themselves are responsible for their lack of meaningful contact with the political system. Hav-

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ing elected representatives with orders to oppose governmental authority, to defend their *situations acquises*, they prevent the emergence of a government effective enough to make contact with the people. Furthermore, the political class is opposed to any direct contact between a strong leader and the people—something that would mitigate the effects of overcentralization. Unlike legislators in the United States, where Presidential fireside chats are an accepted commonplace, the deputies bitterly resented the attempts of Doumergue in the Third, Mendès-France in the Fourth, and de Gaulle in the Fifth Republic to establish a direct connection, over the heads of the elected representatives, between themselves and the electorate.[26] Needless to say, this reaction is securely anchored in the deputies' determined refusal to accord the executive more than the minimum of authority necessary to survive—temporarily.

From a functionalist perspective, the difficulties of the French political system can also be attributed to the loud and coarse style of interest articulation and the weak processes of interest aggregation characterizing the system. Adhering to an absolutist conception of authority—an authority that they alone possess—the citizens and their interest groups state their desires not as requests but as demands upon the government—and exaggerated demands at that, which, if they are not completely fulfilled, are considered to be unfulfilled. Moreover, the absence of a respect for authority prevents the formation of a well articulated system of interest aggregation, in which all would accept the decisions of the persons in authority rather than continually appealing for redress to competing centers of power or resorting to direct action. Interest groups operate almost solely on the national level, the place where power resides, without extending organizational roots down to the regional and local levels. These organizational lacunae also contribute to the irregularities of the interest-aggregation process, given the tenuous system of communications between the pressure-group leaders and the people for whom they are presumably speaking.

Nor does the unorganized state of the political parties offer a remedy for the unedifying spectacle of a disorderly pressure-group politics. It is a primary function of political parties to aggregate diverse interests so that they can be introduced into the policy-making process in an orderly and properly processed manner. Yet the absence of channels extending from the grass roots to the center removes the

[26] Philip Williams, *Crisis and Compromise* (London 1964), 440.

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possibility of the parties' effectively fulfilling this function. Then, too, the lack of discipline within the parliamentary hemicycle and the dependence of most deputies upon nonparty sources for electioneering expenses make the deputies fair game for the pressures exerted and blandishments offered by the various interest groups, resulting not only in an ineffective system of interest aggregation, but also in what Gabriel Almond has called poor "boundary maintenance" between the society and the polity. The interest groups have managed to insert themselves directly into the Assembly through their control and direct representation in the *groupes parlementaires d'études*, causing a marked confusion between the interest-articulation function, the interest-aggregation function, and the rule-making function. Because the interest groups have gained a direct influence on legislative activity, their interests cannot be articulated and aggregated in an orderly fashion; instead, uncompromised or "raw" claims are introduced directly into the legislative process where it becomes more difficult to handle them in an efficient and orderly manner. Surely it is unnecessary to indicate further how each of the factors contributing to the weakness of the interest-articulation and interest-aggregation functions is closely related to French attitudes toward authority.

VI

If a single variable—in this case, a society's attitudes toward authority—is powerful enough to account for the broad operational contours of its political system, is it not possible that the authority variable can also account for the stability and instability of other political systems? Does not the French case suggest that in attempting to account for democratic stability and instability on a universal scale a society's authority relations are the key explanatory factor? For one thing, a stable democratic government must be able to strike a workable balance between its two functions, representing and governing the electorate. An imbalance between the two will lead either to unstable and ineffective government or to inauthentic democracy in which the political elite is able to disregard the desires of the electorate. It would seem that the crucial determinant in patterning the extent to which a government is led to balance these two, frequently incompatible, functions is the attitude toward authority held by both the political class and the electorate. Secondly, the authority dimension in a country's political culture appears to be an exceptionally powerful explanatory variable, able to subsume other types of attitudinal, behavioral,

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and structural factors under its umbrella. It therefore seems reasonable to believe that if various attitudes toward authority could be analytically structured, a theory of stable democracy utilizing them as the independent variable would appear eminently plausible on at least the two following grounds: Attitudes toward authority are intimately related to the stability, efficiency, and authenticity of democratic systems; and because this single variable is able to encompass other types of empirically well-founded hypotheses, whatever validity attaches to these narrower hypotheses can be logically transferred to the authority variable.[27]

[27] Such a theory is developed in the present writer's forthcoming study entitled *The Working-Class Tories: A Study in English Political Culture.*

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